

Appendix U

U.0 Public Comments and Responses

U.1 Public Review of DEIS

U.1.1 Introduction

The public review period of the Draft Plan and Environmental Impact Statement began on April 13, 2001, and ended six and one-half months later on November 1, 2001. Notice of the public review period was initially announced on April 2, 2001 by BLM and subsequently on April 13, 2001, by the Environmental Protection Agency in the Federal Register to begin the public review period. The public was notified of the following dates and venues for public meetings through news releases, public service announcements, and the BLM California website. Public comments were received and recorded in these meetings. The public meetings were held from 6:30 p.m. to 9:30 p.m., unless otherwise specified, on the following dates (in 2001) at the following locations:

Monday, June 4 (9am-11am)
San Bernardino Co. Hearing Chambers
SBCO Government Center
385 N. Arrowhead Avenue
San Bernardino CA

Monday, June 4
Bureau of Land Management
California Desert District Office
6221 Box Springs Blvd.
Riverside, CA

Tuesday, June 5
Yucca Valley Community Center
Yucca Room
Dumosa Ave. (Behind Super 8 Motel)
Yucca Valley, CA

Wednesday, June 6
Bureau of Land Management
4765 Las Vegas Drive
Las Vegas, NV

Thursday, June 7
Needles Council Chambers
City/County Administration Bldg.
1111 Bailey Street
Needles, CA

Monday, June 11
Sheraton Hotel
Cypress Room
303 E. Cordova Street
Pasadena, CA

Wednesday, June 13
Tecopa Community Center
Tecopa Hot Springs Road
Tecopa, CA

Thursday, June 14
Ridgecrest City Council Chambers
Kerr-McGee Bldg.
100 W. California Avenue
Ridgecrest, CA

Friday, June 15
Barstow City Council Chambers
220 E. Mountain View Avenue
Barstow, CA

On one occasion the review period was extended, resulting in the six-month period noted above. Many in the public who felt that the document was too complex and proposals too important to be adequately reviewed in 90 days requested the extended review period.

On numerous occasions, in addition to the above noted public meetings, BLM provided overviews on the DEIS to individuals, interest groups, local governments, citizens of Trona, BLM's Desert Advisory Council, Death Valley National Park's Commission, Mojave National Preserve representatives, and tribal councils.). The Desert Advisory Council also identified a subcommittee to work with the planning team to evaluate existing and identify potential additional alternatives for grazing management. In addition, BLM notified the public that the Preferred Alternative routes of travel designations proposal was available for review on 7.5 minute quad maps covering the entire planning area. By the end of the public comment period approximately 1200 comments were received. These comments were in the form of letters, faxes, email, and public meeting comments.

U.1.2 Desert Advisory Council Resolutions and Responses

The following resolutions from BLM's Desert Advisory Council were developed at the Council's meeting on December 8, 2001, and are included with the set of public comments on the DEIS. These resolutions were developed following the Council's review of NECO and NEMO DEIS proposals and the public comments on each DEIS. BLM has responded to these resolutions and these are also included below. Resolutions numbered 1, 2, 5 and 7 do not apply in the NEMO planning area

1. The Council recommends that all uses within the Imperial Dunes planning area affected by decisions in the Final Recreation Area Management Plan be mitigated.

Response: The Imperial Sand Dunes (ISDRA) is a unique, world class OHV recreation site that possesses unique features and vastness that is not available anywhere else for mitigation in kind. Further, the multiple use mandate that BLM operates under provides for other uses in addition to motorized recreation, and these needs must also be considered. The Draft Plan includes an array of alternatives that address the impacts of management actions. Those impacts are characterized in terms of loss and gain of opportunities within the ISDRA. The BLM is still receiving public comment on the draft and will fully consider all comments received before issuing a final plan later this year.

2. The Council requests assistance from the State of California and the Department of the Interior in providing law enforcement in the Imperial Sand Dunes.

Response: We believe that this important recommendation from the DAC has been addressed. In response to lawlessness over the 2001 Thanksgiving weekend, BLM joined forces with the Imperial County Sheriff, the Imperial County Board of Supervisors, and the California Highway Patrol to dramatically increase law enforcement during the Christmas holiday weekend. On December 4, 2001, the Imperial County Board of Supervisors passed a resolution requesting that the State of California assist the BLM and County Sheriff's Department in providing law enforcement at the Dunes. During the New Year's holiday weekend, BLM initiated a multi-agency Incident Command System to provide adequate support personnel and necessary law enforcement presence to support a declared Zero Tolerance policy.

The Incident Command System has significantly decreased lawlessness as evidenced over the New Years, Martin Luther King, President's Day, and Easter holiday weekends. The California State Parks and Recreation, Off-Highway Motor Vehicle Recreation Commission, awarded a \$1.2 million grant to provide law enforcement and logistical support to the Dunes.

3. **The Council recommends that grazing continue to be authorized at current levels and with current terms and conditions until BLM conducts studies relative to the impacts of livestock grazing on desert tortoise. The Council recommends that BLM actively pursue funding for such studies.**

Response: The forage competition study in the Eastern Mojave Desert ended in 1995. Currently no further studies are being conducted. Starting such studies would require the participation of a willing owner of a grazing allotment and the U.S. Fish and Wildlife Service, and long-term funding, which is not currently available, would need to be secured.

In developing the CDCA amendments, BLM has considered the best and latest information and analyses in a forum of cooperating agencies and interests. The proposals contained in the amendments reflect independent consideration of the best science available and conclusions that are independent of the recommendations contained in the Desert Tortoise Recovery Plan. The U.S. Fish and Wildlife Service will do the same in rendering its biological opinion to the amendments. Upon concluding the planning process, BLM and other land managing agencies will monitor desert tortoise population trends, as well as other related factors noted in the plan amendments, and will adjust its management as a part of its commitment to adaptive management. BLM and the U.S. Fish and Wildlife Service have already agreed to consider some experimental grazing proposals.

4. **The Council recommends BLM pursue the Freeman exchange proposal.**

Response: (Applicable to the NEMO Planning Area only.) This exchange would facilitate community expansion for Nipton. Based upon this resolution, a review of the U.S. Fish and Wildlife Service *Desert Tortoise Recovery Plan*, and the intended use of the lands for public education, BLM has incorporated the proposal into the Proposed Plan/Final EIS.

5. **The Council supports the NECO proposal for additional wildlife guzzlers.**

Response: Based upon this resolution and a considerable number of other public comments, the proposal on artificial waters has been expanded for the 24 waters proposed in wilderness areas to address phasing and the need for additional biological information.

6. **The Council recommends that BLM request the U.S. Fish and Wildlife Service to update the Desert Tortoise Recovery Plan and the BLM not implement the Recovery Plan or NEMO and NECO until the revision is complete and the on-going GAO audit completed and the report filed.**

Response: BLM wrote to the U.S. Fish and Wildlife Service on March 15, 2002, to request information on whether or not the Desert Tortoise Recovery Plan has been reevaluated, if there is a plan to do so in the future, and, if so, what the date is for a reevaluation. No response has been received to date. However, court stipulation deadlines and other factors require BLM to stay on schedule to issue final decisions on these plans by the end of the year.

7. The Council recommends the five open areas recommended for closure in the NECO plan remain open in the final NECO Plan.

Response: The NECO Plan actually proposes to close only two OHV open areas: Ford Dry Lake and Rice Dunes. The other three areas mentioned – Palen Dunes, Palen Dry Lake, and Ford Dunes – were closed in the 1980 CDCA Plan, but the closures were not as clearly defined as they were for other dunes and playas. The proposal to close Ford Dry Lake and Rice Dunes focuses primarily on three factors: (1) dunes and playas are relatively rare in the western United States and contain specialized and often endemic species; (2) while these two were designated open in 1980, they have remained relatively unused for the past 20 years; (3) due to a variety of factors--size, configuration, topography, and location--they do not have significant value for the OHV use intended and would not be expected to see increased use in the future. Consequently, they are proposed for closure in the preferred alternative of the Proposed Plan/FEIS.

8. The Council recommends that all uses within the NECO and NEMO planning area affected by decisions in the Final NECO and NEMO Plans be mitigated.

Response: As an amendment to the 1980 CDCA Plan, the focus of NECO and NEMO Plan amendments are species and habitats. Those aspects of the CDCA Plan not addressed in NEMO continue to apply to BLM's long range and every day multiple use management activities. Developing the CDCA Plan involved consideration of many values and conflicts and making many difficult trade-offs. As much as possible, competing values with inherent conflicting applications were emphasized in different areas to reduce conflicts and restrictions. However, where many conservation and use values are co-located, the mix is considered compatible and acceptable.

Much the same consideration has applied in developing the NECO and NEMO Plan amendments. High value desert tortoise and high value recreation and mineral areas were made as mutually exclusive as possible. For instance, Highway 78 defines a portion of the boundary for the Chuckwalla DWMA. This line divides the DWMA and the area to the southeast, which is valuable for both recreation and mineral uses. In the Shadow Valley DWMA, an area immediately south of Turquoise Mountain and adjacent peaks that provides access to the area was excluded from the proposed plan ACEC because of its recreational and mineral value.

Another consideration relates to the goal of having very large DWMA's and the inclusion of 80 percent of the ranges of special status species in some kind of conservation emphasis area. With this high degree of inclusion, it was felt that little change to casual use recreation would be required. Vehicle-related recreation values were prominent in developing these and other proposals and through this approach are as minimally affected as possible.

U.1.3 Public Comments Analysis and Response

The U.S. Forest Service's Content Analysis Team (CAT) specializes in analyses of public comments. They were contracted to analyze and synthesize public comments into concise "public concern" statements. These public concern statements were grouped into topics and subject groupings through a process developed by the USFS and provided for a number of federal agencies over recent years. The advantages of going to this team are two-fold: professional expertise using sophisticated methodology, and independent review. Following is a description of the methodology.

U.1.4 USFS Content Analysis

Public comments on the NEMO DEIS were documented and analyzed using a process called content analysis. This process provides a systematic method of compiling and categorizing the full range of public viewpoints and concerns. Content analysis is intended to facilitate good decision-making by helping the planning team to clarify, adjust, or incorporate technical information in preparing the Proposed Plan/Final EIS. All comments (i.e., letters, emails, faxes, and public meeting comments) were included in this analysis.

In the content analysis process used for this project, each comment was given a unique identifying number, which allows analysts to link specific comments to original letters. Commenters' names and addresses were then entered into a project-specific database program, enabling the creation of a complete mailing list of all commenters on the NEMO Draft Plan/DEIS. The database is also used to track pertinent demographic information, such as comments received from organizations such as federal, state, tribal, county, and local governments or government associations, business and industry groups, recreational organizations, preservation, conservation and multiple use organizations.

All input was considered and reviewed by a group of analysts. Each comment on the NEMO Draft Plan/DEIS was first read by one analyst and then separated into comments addressing various concerns and themes. Comments were then entered verbatim into a database. A second analyst reviewed a printed report of the sorted comments to ensure accuracy and consistency while preparing the summary analysis. These reports allow analysts to identify a wide range of public concerns, analyze the relationships among them, and summarize comments into "public concern statements".

A public concern statement is just that, a statement of a public concern. It can represent one unique comment from an individual, or a common concern from numerous commenters. The planning staff, who ultimately respond to these public concerns, do not know how many people shared this concern, but rather evaluate the public concern on its merit. It is important for the public and project team members to understand that this process does not treat comments as votes and thus cannot sway decision makers toward the opinion of individuals, groups, or pluralities. Content analysis ensures that every comment is considered with equal merit in the decision process. For each public concern statement, a supporting sample statement is presented. A sample statement is a quote from one comment received that best represents the public concern. The final product includes a list of public concern statements (and associated sample statements) organized by general subjects in the Content Analysis Report (USFS 2002). This report along with the back-up full-text comments, were provided to BLM to serve in preparing responses to comments.

This process and the resulting summary are not intended to replace comments in their original form. Rather, they provide a map to the letters and other input on file with BLM and greatly facilitate the review and responses to concerns.

U.1.5 Responses to Public Concerns

Over 420 public concern statements were provided to BLM by the above-described process. BLM's project management personnel reviewed this list of public concern statements and associated sample statements and assigned appropriate staff to each public concern. In making these assignments, it became clear that some of the public concerns could be combined. Assigned staff evaluated the public concern statements and associated sample statements. They made revisions to this Plan and FEIS as appropriate, and prepared written response to public concern statements that are presented below.

Responses to public concerns are provided below. In reviewing the public concerns and responses, readers should note the following:

- To the extent that two or more public concern statements are the same or very similar they are grouped together and addressed in one response.
- For public concern statements that were characterized as applause, no response was prepared.
- For comments that only cast a preference for a particular alternative or proposal with no justification, no response was prepared.
- For public concern statements for areas well beyond the geographic range of this plan and/or and subjects not pertinent to this plan, no response was prepared.
- For comments which are the same or similar to topics in both the NECO and NEMO plans, responses are the same or very similar.
- The public concern statements which follow are grouped by subject. Choice was necessary in placing some statements into groups. Therefore, the reader is encouraged to review all the groupings to fully understand public concerns on particular subjects.

In the following section, Public Concern is abbreviated PC. The public concern statements are presented in bold text and the planning team response is in normal text.

Planning Process – Public Participation and Cooperation

PC 1: The BLM should extend the comment period to allow for adequate review of proposed plans.

Response: A variety of media are used to notify and involve the public in land use planning and other action proposals: the Federal Register, public service announcements in local and regional newspapers and radio stations, mailings to BLM mailing lists, and the BLM website. In the case of newspaper and radio stations BLM can only hope that the announcements are carried and in places/at times to be most communicated. In some cases BLM has returned to communities to repeat the opportunity. In all it is unfortunate that some people still do not get the word and are left out of the process. The extension of the public review period from July 13, 2001 to November 1, 2001 hopefully has mitigated this issue.

PC 2: The BLM should adequately notify the public regarding opportunities for participating in the planning process.

PC 3: The BLM should advertise and schedule public meetings to enhance attendance.

PC 5: The BLM should respond to requests for information.

PC 11: The BLM should ensure that affected parties are consulted during the planning process.

PC 13: The BLM should use effective outreach methods for informing motorized users about the proposed Travel Plan.

Response: Public notification in the planning process included several regional public-scoping meetings published in local publications and the Federal Register. The meetings were held at the outset of the process and later in the process as the range of alternatives were being developed. Highlights of this process are outlined in Chapter 5 Consultation and Coordination, Sections 5.1 Public Involvement and 5.2 Planning Process. Public newsletters that summarized the outcome of scoping efforts were provided to the mailing list specifically developed for this planning effort and other interested publics, agencies, and interested parties. A web page was also developed and placed on the Bureau of Land Management California State server as a supplementary source of information on upcoming meetings, contacts, key dates, and documents when released.

PC 4: The Final EIS should be clearly structured and designed to inform the general public.

Response: The document is clearly structured and designed to inform the public, as evidenced by the detailed scope and depth of public comment received. The Executive Summary also provides a concise overview of the Proposed Plan. Issues are not linked throughout the entire document when unrelated, but the summary table in Chapter 2 of the Final EIS provides a comprehensive overview of the Proposed Plan and of the environmentally preferred alternative for ease of comparison as part of an overall summary of all alternatives. In addition, some detailed activity plan-level information is provided in appendices and only major elements are summarized in the main body of the document.

PC 6: The BLM should simultaneously provide all relevant planning information to facilitate meaningful public comment.

Response: Land use plan amendments of the nature of NEMO are difficult to describe. Since it is not practical to bring forward the full 1980 CDCA Plan that is being amended, not to mention similar and pertinent documents of other agencies, BLM must extract and summarize information from other documents, policies, and laws to the extent necessary to state proposals, develop the EIS, and provide context for understanding. BLM feels that the NEMO Plan brings forward adequate general and current management information from the CDCA Plan, other agencies plans and policies, and the Desert Tortoise Recovery Plan to achieve the need, and that the document itself is complete with rationale, criteria, and analysis to support proposals contained in the alternatives. All the copies of NEMO that were mailed to the public, as well as the electronic copy on the BLM California website, contain the same identical information. To the extent that individuals in the public wants to better understand the nature and context of proposals, it is incumbent upon them to obtain the documents they are interested in.

PC 7: The BLM should provide accurate maps and route closure information to encourage public participation.

PC 8: The BLM should provide maps that are sufficient to allow site-specific analysis of every motorized route.

Response: The Bureau of Land Management has made 7.5 minute maps of the subregions proposed for routes of travel designations within NEMO available upon request (about 70 maps), and some members of the public have requested sets of these maps. In addition, the routes of travel maps in the FEIS have been improved to provide additional detail on routes of travel, route attributes, and rationales for proposed route-specific decisions.

PC 9: The BLM should conduct Section 7 consultation with the U.S. Fish and Wildlife Service prior to the close of the public comment period to ensure adequate opportunity for public review.

Response: The BLM initiated consultation on the CDCA Plan and the proposed amendments on January 31, 2001, well prior to the close of the public comment period. At the date of publication, the BLM has received a final biological opinion from USFWS on the effects of the CDCA Plan and proposed amendments, including the Proposed NEMO Plan, on the desert tortoise and two listed plants. The BLM is awaiting a final biological opinion on migratory birds and the Amargosa vole..

If the USFWS finds that the proposed action will “jeopardize the continued existence” of a listed species or will “adversely modify critical habitat,” then reasonable and prudent alternatives must be presented by USFWS. Because the USFWS has been involved in the development of the Proposed Plan, we do not anticipate a jeopardy or adverse modification opinion.

If a non-jeopardy opinion is prepared, USFWS will issue an “incidental take authorization” in the biological opinion. This would allow a specified level of harm or mortality to the listed species or of impact to habitat. The biological opinion may include “reasonable and prudent measures” to minimize the take of listed species. The biological opinion may then include a list of “terms and conditions” to implement the reasonable and prudent measures. The BLM must comply with these terms and conditions. However, these terms and conditions may not substantially alter the proposed action. If the proposed action would require substantial modification to receive an incidental take authorization, then USFWS must issue a jeopardy or adverse modification opinion.

PC 10: The BLM should eliminate bias against motorized recreationists in the planning process.

PC 313: The BLM should provide information on who was consulted regarding route closure decisions.

PC 315: The BLM should involve the public in the decision-making process regarding road closure.

Response: The NEMO planning team did not select the travel plan process that is referred to in this comment. NEMO and NECO planners worked closely together to achieve consistency in route designation methodologies. During Plan development, individuals representing diverse interest groups (working through the District Advisory Council) participated in the development and review of route network proposals and alternatives, provided feedback on issues to be resolved, and fostered support from their constituencies for the Plan. Other groups and individuals participated in the process and provided general on-the-ground route information or information specific to their user interests.

During the designation process in each desert tortoise subregion, each existing route was evaluated against the criteria in 43 CFR 8342.2 (see Chapter 4, Section 4.9), including each route proposed for closure.. The overall route network in each desert tortoise subregion was also evaluated to ensure that both proposed networks—the one north of I-15 and the one south of I-15—would adequately serve local residents and visitors, both in terms of general transportation access and recreational needs

PC 12: The BLM should address the perception that local concerns have been ignored in the planning process.

PC 254: The BLM should hold public forums to address concerns of local residents regarding land-use management decisions.

PC 255: The BLM should consider the needs of local residents when making land-use decisions.

Response: Chapter 5 of the FEIS describes in detail the public involvement process that included public outreach and meetings, legally required public involvement steps and comment periods. The planning process for this plan amendment has included numerous public meetings and an extended comment period in which citizens were provided opportunities to be involved in the planning process and to share local knowledge. All public comments received during the extended comment period were analyzed and categorized by an independent team from outside the California Desert District. Following the independent comment analysis, the public concerns were analyzed and addressed by resource specialists and considered by BLM managers. The comments were not weighted by the number received or counted as votes, nor was special consideration given to comments received from a particular geographic region, organization, or individual.

Planning Process – National Environmental Policy Act Compliance

PC 14: The Final EIS should disclose all information relevant to issue identification, planning criteria, management situation analysis, and alternative selection.

Response: Issue identification, planning criteria, management situation analysis and alternative selection are based on BLM planning regulations contained in 43 CFR 1610. These planning steps have been followed by the BLM in the development of this plan amendment and are contained in associated documents such as the Draft and Final EIS. Because of a variety of circumstances, the planning process for this amendment has extended over several years. Further information regarding these planning steps is contained in Chapter 1 of the Proposed Plan/FEIS and the administrative record for this planning effort.

PC 15: The BLM should justify how the scoping process was conducted and how issues were selected from scoping comments.

Response: The public scoping process for this planning effort is described in Chapter 5 of the Proposed Plan/FEIS, with a detailed description of issues. The issues that were identified for analysis and additional information regarding the issues are summarized in Chapter 1 and Chapter 2 of the FEIS.

PC 16: The BLM should comply with NEPA regulations to ensure that public comments are not considered as votes during the planning process.

PC 17: The BLM should comply with NEPA regulations to ensure that public comments are not considered as votes during the planning process.

Response: Chapters 1 and 5 of the Proposed Plan/FEIS describes in detail the public involvement process that included public outreach and meetings, legally required public involvement steps and comment periods. All public comments received during the extended comment period were analyzed and categorized by an independent team from outside the California Desert District. Following the independent comment analysis, the public concerns were analyzed and addressed by resource specialists and considered by BLM managers. The comments were not weighted by the number received or counted as votes, nor was special consideration given to comments received from a particular geographic region, organization, or individual.

PC 18: The BLM should include motorized recreation planners on the Interdisciplinary Team to ensure a balanced perspective on the Travel Plan.

Response: The primary recreation planner on the planning team and involved in the development of the route network in the DWMAs and associated route designation process is an outdoor recreation planner heavily involved with motorized recreation issues (see also response to PC #10).

PC 19: The BLM should evaluate how nationally funded environmental groups have influenced the NEPA process regarding motorized recreation.

Response: The BLM followed all applicable laws and regulations regarding FLPMA, NEPA and the BLM planning process to amend the CDCA Plan for the NEMO planning area. The investigation of nationally funded environmental groups is beyond the legal authority of the BLM and beyond the scope of this plan amendment.

PC 21: The BLM should use an independent scientific panel for objective rangeland assessments.

Response: At a regional level, NEMO team planners participated in the overall review that was conducted for shared NECO/NEMO strategies during the NECO planning process.. Specific to rangeland assessments, as outlined in Section 2.1 of the NEMO document, Standards are expressions of the physical and biological condition or degree of function required for sustainable, healthy rangelands. They are not intended to provide site-specific thresholds with scientific methods for measurements. It is generally guidelines rather than standards that provide measurable assessments and methodologies, based, again, on the definition of guidelines in Section 2.1. The question is therefore applicable to guidelines, i.e., specific to grazing use, in this planning effort.

Scientists as well as the public, ranchers and other interested individuals from outside the Bureau of Land Management may provide input to, participate in field reviews, review data associated with and give feedback to rangeland assessments. It is not cost-effective, nor would it guarantee independence, to hire another panel to do what the Bureau of Land Management has already been delegated the responsibility to do -- to make the final decisions based on the assessment data in terms of needed management changes, using whichever set of guidelines are ultimately adopted in this planning effort.

PC 22: The BLM should establish a Multiple-Use Review Board to assure that the Final EIS reflects multiple-use management goals and the needs of the public.

Response: A Multiple-Use based advisory board already exists in the California Desert Conservation Area. It is the California Desert District Desert Advisory Council (DAC), established during the development of the California Desert Conservation Area Plan in 1978. This Council has 15 members that represent specified multiple-use interests, including Off-road Vehicle representation, Renewable and Non-renewable Resources, Environmental representation, Utility interests, Tribal representation, Local government representation, and At-large public membership.

PC 23: The BLM should base the Final EIS upon the best available science.

Response: The managers and resource professionals involved in the EIS for this plan amendment used the best science that was reasonably available. The EIS contains a substantial number of citations and referenced literature to provide the public with information about the science on which analysis was based. Notwithstanding the science utilized in the EIS, it is acknowledged that a great deal of professional judgment was relied upon in assessing the effects of the alternatives. This reliance is not a flaw, first, because the judgments are generally well informed given the data upon which they are based. second, the judgments are of experienced resource professionals with educational credentials and years of on-the-ground experience, and third, a degree of professional technical judgment is inevitable in evaluations and predictions based on the available science and is primarily relied upon in conducting the assessments of effects of this FEIS.

PC 24: The BLM should re-circulate a revised DEIS that provides adequate environmental impact analysis and complies with relevant statutory requirements.

Response: The BLM has followed all procedural steps required by law and regulation. Changes between the Draft EIS and Final EIS, which result from both public comments and internal agencies' reviews, have strengthened the document by the addition of information, facts, scientific and technical evidence, and logic to support conclusions regarding impact analysis of the alternatives.

PC 25: The BLM should ensure that planning staff meets State of California professional credential standards prior to conducting NEPA analyses.

Response: The analysis of the alternatives was conducted by BLM resource professionals who have met educational and experience requirements for their positions. Their analysis and conclusions are based on a combination of scientific and technical information and professional judgment and are therefore a valid basis upon which the responsible official may make a reasoned choice among the alternatives. There is no legal or regulatory requirement that BLM professionals must meet the State of California professional credential standards in order to conduct NEPA analyses.

Planning Process – Implementation, Monitoring, Adaptive Management

PC 26: The Final EIS should provide data supporting the BLM's identification of potential causes of resource decline.

Response: Public land health assessments are conducted with an interdisciplinary team of BLM staff and those members of the public wishing to participate. The assessment team identifies the geographical area to be reviewed. The field specialists of the team evaluate, describe, and photograph resource conditions (soil conditions, plant vigor, etc.) and activities occurring within the selected area. After the area has undergone field assessment, one or more members of the team draft a skeleton determination based on team discussions to be routed among team members for their specialized input. That input plus existing monitoring data and other relevant resource data forms the basis for the final determination. The determination identifies the area assessed and provides relevant related information, lists names of participants, identifies information reviewed, summarizes the rationale for the determination, summarizes contributing factors for not meeting standards, provides recommendations from BLM staff for development and implementation of appropriate actions, documents public involvement, and identifies Authorized Officer's priorities for action and implementation of the determination.

A determination is based upon review of field data and existing records. Review of standards would occur planning area-wide and recommended prescriptions would be made for those areas that do not meet the standards. By regulation standards are being reviewed in grazing allotments, and have been completed in most of the allotments. At this point, no other areas have been assessed in the planning area. The addition of public lands for field assessment would mean more BLM staff and interested members of the public would become involved after finalization of the Proposed Plan in implementation of this action.

PC 27: The BLM should conduct a cumulative impact analysis of other projects on the NEMO planning area.

Response: The FEIS contains cumulative impact analysis in Section 4.12. This cumulative impact analysis, because of the broad landscape nature of the Proposed Plan and the millions of acres involved in the region surrounding the planning area, must by necessity be somewhat general in nature. The FEIS cumulative effects analysis addresses the incremental impacts of the Proposed Plan when added to other past, present, and reasonably foreseeable future actions.

PC 28: The BLM should coordinate NEMO planning and implementation with related plans to ensure consistency.

PC 29: The BLM should revise the NEMO and NECO planning documents for consistency.

PC 32: The Final EIS should correctly relate the NEMO plan with the National Park Service's plans regarding the Desert Tortoise Recovery Plan and the Joshua Tree Plan.

PC 51: The Proposed Plan should comply with local government land use designations and management prescriptions to assure consistency.

Response: From these and other public comments, BLM has made considerable improvements to Chapter 4 effects analysis and other subjects. Regarding cumulative affects and agency-agency conflicts, the opportunities are provided in these plans and their implementation to bring the mandates, plans, and project actions of many agencies into larger contexts than are possible with single-agency planning. Considerable coordination of planning processes has occurred among adjacent plans, as well as on a California Desert-BLM basis, given the fact that each plan is a plan amendment to the 1980 CDCA Plan. On the other hand, each plan's approach to the desert tortoise and many species are also unique in that they are tied to the unique qualities of place and combinations of uses. Future implementation of any land acquisitions or conveyance will require environmental analysis, which would include a discussion of local land use plans. The Proposed Plan affects the multiple-use designation; it does not authorize or approve a particular development. In the case of DWMAs, a "stand alone" management is required. Some actions are plan amendments; others are prescriptions to ACEC plans for desert tortoise and other species.

PC 30: The BLM should integrate NEMO, NECO, and WEMO planning documents into one California Desert Conservation Area Plan Revision.

PC 48: The BLM should initiate one amendment for all California Desert Conservation Area planning units.

Response: NEMO and other planning efforts currently being developed each amend the 1980 CDCA Plan. They are unique and complex enough to warrant a separate plan amendment effort. The nature of values and levels of uses throughout the CDCA vary and do not necessarily invalidate separate plan amendments. Separate plan amendment decisions are being scrutinized to ensure that they are the same as, or are consistent with, common CDCA Plan themes and programs and that cumulative impacts analyses consider the CDCA as a whole. At the conclusion of these plan amendments, there will still be the one CDCA Plan.

PC 31: The BLM should suspend the NEMO planning process until a decision is made in the proposed Yucca Mountain nuclear waste repository.

Response: The Bureau of Land Management would not indefinitely delay the important decisions of this planning effort based on what may happen in the Yucca Mountain or another planning effort. If it were appropriate to do so, the information would be factored into the reasonably foreseeable effects in the Northern and Eastern Mojave planning effort as is provided for in the National Environmental Policy Act (40 CFR 1508.8).

There is concern that a new, upgraded railroad will be built to service the Yucca Mountain facility along the existing Tonopah & Tidewater Railroad in the NEMO planning area. The Final Yucca Mountain EIS (February, 2002) in Figure S-13 has not identified a new railroad through this area as one of the transportation alternatives under consideration. No facts or evidence are provided to indicate it is under consideration as an alternative. In addition, there are substantial conflicts that would need to be addressed through an environmental analysis process – natural and cultural resource as well as historical and recreational conflicts – before this alternative could be selected. Therefore it is not appropriate to factor it into the reasonably foreseeable future.

PC 33: The BLM should update the Final EIS to reflect the National Park Service's general management plans for Death Valley National Park and Mojave National Preserve.

Response: The Bureau of Land Management agrees that the Proposed Plan decisions in the CDCA's Northern and Eastern Mojave Desert depend upon, and are related to, decisions made by the National Park Service on adjacent park lands, and editorial changes have been made to reflect the releases of the final General Management Plans as provided by NPS comments. The planning area and its park and public land resources are bound together by geographic and biologic values that do not recognize jurisdictional boundaries. Most compelling of the common goals in these planning efforts is the need to conserve and recover the desert tortoise, and provide for continued public access and sustainable use. However, the Bureau of Land Management does not manage National Park Lands, nor does the National Park Service manage public lands.

PC 34: The Final EIS should clarify that the responsible land management agencies cannot abdicate responsibilities to the Desert Managers Group.

Response: The Desert Managers Group is comprised of the various agencies in the desert that utilize this forum to discuss desert-wide issues and concerns; it does not mean that any agency abdicates its responsibility.

PC 35: The BLM should reduce the amount of agency resources it commits to develop the Final EIS.

Response: The personnel, funding and time that are committed to a BLM planning effort and associated NEPA compliance is relative to the scope, the sensitivity and the complexity of the plan. The NEMO Plan encompasses 2.7 million acres of public lands and addresses many issues of high interest to the public and of vital importance to the BLM's mission. The laws, resources and social context are varied and complex. As such, it would be expected that the planning effort that would accompany an EIS of the breadth and importance of the NEMO Proposed Plan would be of significance.

PC 36: The BLM should ensure that it has the funding and resources to meet multiple-use mandates while protecting the environment.

PC 37: The Proposed Plan should clearly identify monitoring objectives and future actions for correcting plan implementation.

PC 39: The BLM should address the availability of funds to provide effective monitoring.

Response: BLM and other cooperating agencies have very limited funds with which to conduct monitoring tasks. At this time, however, there are many unknowns such as agency capability, costs, grant opportunities, and volunteerism. Chapter 7 outlines the current monitoring and implementation strategy, and provides the mechanisms to further refine tasks and priorities as new information is provided.

PC 38: The BLM should consider the negative impacts of monitoring.

Response: By tailoring the action to the monitoring need, BLM would discharge its oversight responsibilities with a minimum of disruption. Though the type and method of monitoring may be altered, the size and nature of the areas monitored would not change. There should be no need for circumvention of closed routes, including those in washes, because BLM expects the public to help in striking the balance appropriate to the genuine needs of users and the fundamental survival needs of plant and animal species in a very challenging environment. BLM would install and maintain a minimum of signs. The purpose of most signs would be to assure the public that a given route is “open” for use. A number of those routes would be in washes.

PC 40: The BLM should clarify the number of acres potentially affected by the proposed projects.

Response: The entire planning area is approximately 3.3 million acres..

PC 41: The BLM should provide visitor education programs to help conserve the desert environment while allowing recreational use.

PC 179: The BLM should provide public education opportunities pertaining to desert vegetation.

PC 204: The BLM should continue to educate people about the desert tortoise.

Response: The BLM agrees. Visitor education and outreach, including strong volunteer programs, are essential components of successful conservation efforts. Two examples in the planning area include: (1) the privately run desert education center that is proposed for Nipton and is one element of the program for the Desert Tortoise Strategy; (2) recent Sperry Wash signing and marking efforts to address conservation issues and still permit access through the area.

PC 42: The Final EIS should recognize the U.S. Fish and Wildlife Service as the agency responsible for desert tortoise habitat category decisions.

Response: The habitat categories are BLM designations. The requirement for their designation, definitions for the three categories, goals for each category, and criteria for the categories were specified in the BLM's *Desert Tortoise Habitat Management on the Public Lands: A Rangeland Plan*, which was signed by the Director in 1988. After operating under an interim desert tortoise habitat category map for several years, the BLM amended the CDCA Plan in 1993 to incorporate the official map.

In the Desert Tortoise Recovery Plan, USFWS indicated general areas where desert wildlife management areas or DWMAs should be established. However, the USFWS specifically left the designation of boundaries to the land management agencies (Recovery Plan, p. 48, item 1.b.). The USFWS has participated in the development of the Proposed Plan, including proposed DWMA boundaries and management actions. BLM would manage its DWMAs under the CDCA Plan as ACECs. In addition, USFWS will review the Proposed Plan formally through the consultation process defined in the Endangered Species Act.

PC 43: The Proposed Plan should require site-specific review of projects that disturb 10 or more acres of public land.

PC 54: The Proposed Plan should retain current requirements for site-specific project review and consultation for mining disturbances greater than 10 acres.

PC 124: The BLM should evaluate ground disturbance in Desert Wildlife Management Areas.

PC 184: The Proposed Plan should retain requirements for site-specific project review and consultation for mining disturbances greater than 10 acres.

PC 388: The BLM should allow a greater than one percent disturbance limit for mining operations.

PC 389: The Proposed Plan should adopt a 10 acre disturbance area, rather than 100 acres, which can be evaluated without an Environmental Impact Statement.

Response: All projects will receive site-specific review under the National Environmental Policy Act (NEPA). The proposed action is that actions up to 100 acres and meeting the stated criteria will not require a separate consultation with USFWS under Section 7 of the Endangered Species Act. Rather, a programmatic biological opinion from USFWS will be applied to qualifying projects. We are proposing to do this based on many years of application of a well-tested set of mitigation measures.

Even then, each project affecting desert tortoise will have site-specific review by both BLM, and then USFWS through a reporting and review process. This will ensure that BLM has properly applied the programmatic biological opinion. More specifically, USFWS will ensure that the project under review qualifies for the programmatic and that the appropriate terms and conditions (i.e. mitigation measures) are being applied.

Statutory Authority

PC 44: The Final EIS should identify how changes on public lands meet the legal standard for triggering the proposed plan amendments.

PC 45: The Final EIS should identify the new BLM policies that were adopted and/or implemented and justify how these policies trigger the proposed plan amendments.

PC 46: The Final EIS should disclose the BLM's authority to amend the CDCA Plan. The Final EIS should justify how particular threatened and endangered species status changes are legitimate triggers for the proposed plan amendments.

Response: For the California Desert Conservation Area, Section 601 of the Federal Land Policy and Management Act (FLPMA) provided for the protection of resources as well as provide for use and recreation while recognizing valid existing rights and initiated the California Desert Conservation Area Plan of 1980. FLPMA (Sections 201, 202) also recognized the need to revise land use plans owing to new needs and information. The utilization of plan amendments is defined in 43 CFR Part 1610.5-5.

Pursuant to 43 CFR 1610.5-5, monitoring and evaluation findings, new data, new or revised policy, a change in circumstances or a change in circumstances or a proposed action that may result in a change in the scope of resource uses or change in terms, conditions and decision of the approved plan initiated a plan amendment. The listing of the desert tortoise through the Endangered Species Act and the resulting development of a recovery plan and identification of critical habitat is an example of events that call for modifying the CDCA Plan through a plan amendment process. These triggers are identified in Chapter 1 of the NEMO FEIS document, and further discussed and clarified under Section 1.3 Purpose and Need. The basis for change in status (i.e., population declines, threats, etc.) rather than the status itself provides the need and is the basis of choice for the proposed strategy.

PC 50: The BLM should examine proposed route closures for compliance with RS2477.

PC 326: The Final EIS should clarify that the BLM has no authority to close county roads.

PC 327: The Final EIS should ensure the preservation of RS 2477 rights-of-way for future generations.

Response: BLM is not proposing to close any county road in the planning area. Revised Statute 2477 (R.S. 2477) was passed by Congress as Section 8, of the Mining Act of 1866. It was repealed when the Federal Land Policy and Management Act (FLPMA) was passed on October 21, 1976. However, FLPMA did not terminate any existing "rights-of-way" granted under R.S. 2477. The Mining Act established the first system for patenting lode-mining claims and provided for access. R.S. 2477 said: "The right-of-way for the construction of highways over public lands, not reserved for public uses, is hereby granted."

There are often questions of what was offered under R.S. 2477, to whom, and how the rights-of-way were to be perfected. These questions have not been answered in a clear and consistent manner either locally or nationally. Many routes across public land came into existence with no documentation of the public land records. Routes across public land after 1866, but before withdrawal, patent, mining claim, or reservation for a specific purpose, and before the passage of FLPMA may be R.S. 2477 rights-of-way.

In an attempt to clear up these ambiguities, Congress directed the Department of the Interior to study the history, impacts, status, and alternatives to R.S. 2477 rights-of-way and to make recommendations for processing claims (assertions). This process began in November 1992. Public meetings were held to assist in preparing a report that was submitted to Congress in May 1993. The Report stated that, until completion of the report, the Department “deferred processing pending claims unless there is an immediate and compelling need to recognize or deny any claims.”

The BLM was directed to prepare regulations to guide the process of reviewing R.S. 2477 claims. Draft regulations were published in 1994. Three terms are important in determining which roads are R.S. 2477 rights-of-way: (1) “construction,” (2) “highways,” and (3) “not reserved for public uses.” The terms “construction” and “highways” are among the most controversial provisions of R.S. 2477 and the regulations. On November 19, 1995, Congress approved a moratorium on the regulations. Because there are no final regulations that provide criteria for processing claims under R.S. 2477, the policy of deferring processing claims unless there is a compelling need remains in place.

The route network identified under the Proposed Plan was developed through a route designation process that considered resource management issues and regulatory and statutory closures (such as in designated wilderness). This process did not make any determinations under R.S. 2477. If a route is designated as “closed,” that designation is not a determination that an R.S. 2477 right-of-way does not exist. Such a closure does not extinguish any R.S. 2477 right-of-way that may exist. Conversely, a route designated “open” does not mean that the route was determined to be an R.S. 2477 right-of-way.

PC 51: The Proposed Plan should comply with local government land use designations and management prescriptions.

PC 52: The BLM should comply with the Regulatory Flexibility Act.

PC 391: The BLM should evaluate their definition of a “small entity” within NEMO.

PC 392: The BLM should provide documentation that the Initial Regulatory Flexibility Analysis was conducted for the NEMO Planning Area.

Response: The NEMO plan is not rule making, therefore, the regulatory flexibility analysis is not required.

PC 53: The BLM should review proposed route closures for accordance with multiple-use management directions.

Response: The Federal Land Policy and Management Act (FLPMA), in requiring that development and revision of land use plans use and observe the principles of multiple use and sustained yield (Sec. 202(c)(1)), defines “multiple use,” in part, as the management of public lands and their various resource values in such manner that “takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish,” and allows “the use of some land for less than all of the resources” (Sec. 103(c)).

In developing the NEMO Plan alternatives, BLM staff observed the principles of multiple use and sustained yield. Within the desert tortoise subregions a particular consideration was providing for protection of special status species, in particular for the recovery of the desert tortoise, while not significantly constraining opportunities for a diversity of recreation and other casual use activities, including those that are motorized-vehicle based. Limiting vehicle access to a greater extent in some areas than others to achieve such goals as recovery of threatened and endangered species conforms with the multiple-use mandate established by FLPMA, that is, some public lands need not accommodate all resource uses.

The analysis regarding impacts to recreation resulting from designating routes of travel as “open,” “limited,” and “closed” under the Proposed Plan has been strengthened for the Final Environmental Impact Statement. The effects on vegetation and related issues; wildlife; and soils and air quality from designating routes as “open,” “limited,” and “closed” under the Proposed Plan are described briefly in the FEIS in Sections 4.2.5.1, 4.2.5.2, specific to their effects on desert tortoise conservation and recovery, and again under the route designation impacts analysis in 4.9.5.1, 4.9.5.2, and 4.9.5.3, respectively.

The effects on Recreation and Motorized-Vehicle Access consequent to such actions are described in Sections 4.2.5.9 and 4.2.5.11, respectively in the discussion of desert tortoise conservation and recovery and subsequently in 4.9.5.5 and 4.9.5.8 under the overall route designation discussion. The effects of different route designation scenarios proposed under other alternatives are also provided in Chapter 4 (Environmental Consequences—Third number gives the alternative number, i.e., 4.9.1.1 is alternative 1, 4.9.2.1 is alternative 2, etc.). These analyses form the analytic basis for comparison of the alternatives (40 CFR 1502.16). Specific references to hunting opportunities have been included.

The analysis in Chapter 4 concluded that such limitations, overall, do not result in a substantial change in recreational opportunities or access within the desert tortoise subregions.. However, some groups, including hunters, are more affected than others because, in the MUC L desert tortoise subregions, washes would not be approved as routes of travel unless they provide primary transportation access (see Routes of Travel designation criteria in Chapter 2.10.2 as modified by Alternative 5. and Sections 4.9.5.5 and 4.9.5.8, Impacts to Recreation Resources and Activities and to Vehicle Access, respectively). The cumulative effects of limitations on vehicle-based recreation, including those stemming from the designation of wilderness upon passage of the California Desert Protection Act of 1994 (Public Law 103-433), are discussed in the cumulative effects section in Chapter 4, Section 4.12. The conclusions of the analysis find that the cumulative affects are not significant.

PC 55: The BLM should ensure adequate supervision of planning documents with regard to statutory requirements, standard resource classifications, and information accuracy.

PC 383: The Final EIS should clarify NEMO active mines and mineral potential maps, and correct false and missing information.

Response: Appendix K has been modified to include a summary on the 1872 Mining Law and other statutes. Regarding BLM's position on R.S. 2477 the reader is referred to the response to Public Comment #327. Regarding resource classifications, the mineral potential map of Figure 3a has been modified to clarify the relationship of the coverages to well-recognized CDCA Plan mineral terms, and the symbols used have been likewise modified. Areas having potential for leasable industrial mineral resources (mostly sodium resources) and locatable minerals (mostly nonmetallic) are now included.

Consideration of Alternatives

PC 56: The BLM should draft and implement a new preferred alternative providing reservation of valid existing property and access rights.

PC 251: The BLM should ensure recreation access to public lands in spite of private inholdings.

Response: Valid existing rights are recognized, and cannot be either modified or voided by an alternative. Routes of Travel designations (i.e., "open", "closed", and "limited") were not made across private lands. Upon assertion of rights by private landowners to restrict access across their lands, the BLM will address the issue of public access to public lands on a case-by-case basis. BLM will work cooperatively with land owners and local governments, and may pursue easement, cooperative agreement, or other instrument to provide public access.

Generally, in the NEMO Plan, assuring access to public lands across private inholdings has not been a major issue, and there is not a need to address it strategically. Some larger private landowners with relatively many inholdings (e.g., Union Pacific, Cadiz Land Company, Catellus) were specifically consulted during the route designation process. In instances where a route traversed public and private lands, the portion of the route that crossed public land was given a designation. The portion traversing private lands was not designated. See Chapter 8 Routes of Travel designation maps, Figures 4a–4h.

PC 57: The Final EIS should include clear language to establish one consistent, Proposed Plan.

Response: In response to these concerns BLM has modified Table 2.1 at the beginning of Chapter 2 that describes how the NEMO issues are to be addressed in the planning effort. In addition, the Proposed Plan, as selected, is described in the Executive Summary of the document. For goals and objectives for the full set of recreation and other major elements of public lands management in the California Desert the reader is referred to the overall CDCA Plan.

- PC 59:** The BLM should implement Alternative 2 only if it is strengthened to better protect endangered plants and animals.
- PC 60:** The BLM should implement Alternative 2 to protect environmental resources.
- PC 61:** The Final EIS should not include additional land use restrictions within the Preferred Alternative.
- PC 63:** The BLM should draft and implement an alternative that includes all provisions of the Desert Tortoise Recovery Plan.
- PC 64:** The Final EIS should include a Proposed Plan for routes of travel that preserves multiple-use principles including motorized recreation.
- PC 66:** The Final EIS should include a Travel Plan Alternative that supports motorized recreation.
- PC 68:** The Proposed Plan should consider the boundaries as identified in the Fish and Wildlife Service Recovery Plan as desert tortoise ACECs.
- PC 71:** The Proposed Plan should uphold all current Multiple Use Classifications.
- PC 75:** The BLM should conduct studies to establish credible evidence of vehicle route impacts on flora and fauna.
- PC 206:** The BLM should protect the desert tortoise by adopting Alternative 2 as its Preferred Alternative.
- PC 210:** The BLM should consider that it is not required to adopt all aspects of the Desert Tortoise Recovery Plan.
- PC 400:** The BLM should preserve desert resources for the well-being, enjoyment and education of future generations
- PC 401:** The BLM should preserve motorized access to public lands for the enjoyment of future generations.

Response: These comments provide a preference for an alternative only; do not provide enough specificity in describing the changes to an alternative desired; and/or have not provided further facts and evidence to support a change in the Proposed Plan or another alternative, as appropriate.

- PC 62:** The Final EIS should incorporate all CDCA lawsuit settlement conservation measures within Alternative 2.

Response: The CDCA lawsuit settlement conservation measures were aimed at interim steps while the BLM completed consultation with the US Fish and Wildlife Service on the CDCA Plan. The Proposed Plan incorporates an overall strategy to accomplish the Purpose and Need set forth in Chapter One of the FEIS. The Purpose and Need of this plan provides for the conservation and reduction of threats to species listed under the Endangered Species Act including the desert tortoise, Amargosa niterwort, Ash Meadows gumplant, and other species. The focus of this plan was developed, including a range of alternatives, prior to the lawsuit. The design of the Proposed Plan had objectives that were similar in intent as many of the conservation measures in the CDCA lawsuit, but more focused in some respects, and more landscape-level in other respects. The environmental consequences analysis contained in Chapter 4 of the FEIS provides evidence that the plan goals and objectives for listed species will be met.

PC 65: The Final EIS should include an education alternative designed to reduce and mitigate motorized recreation impacts.

Response: An education plan addressing motorized recreation as well as other issues will be included in the implementation of this plan. Leave No Trace and Tread Lightly programs are an integral part of this plan along with interpretation, signing, maps (e.g., Desert Access Guides), and the development of brochures and web pages. BLM will be doing extensive education and outreach in addition to the closures to protect sensitive resources. Briefings on the need and methods to protect desert tortoise and its habitat will continue to be presented to participants at organized events, clubs, and school. It is also anticipated that through monitoring efforts, BLM will have the ability to collect data to assist them in identifying alternative measures to protect the tortoise and other sensitive resources. Education alone would not be substantive enough to be considered as an alternative to closing or limiting routes since route designation was an objective of the California Desert Conservation Area (CDCA) Plan (1980) as amended.

General Desert Environment

PC 69: The Proposed Plan should provide protection and management for botanically unique regions within the NEMO area.

Response: The Vegetation Element of the CDCA Plan defines Unusual Plant Assemblages (UPAs) as “those strands of vegetation within the CDCA which can be recognized as extraordinary due to one or more factors. The UPAs are shown on Map 6 of the CDCA Plan. UPAs are to be considered in site-specific environmental analyses for proposed actions.

In 1980, many of the most significant UPAs were designated as areas of environmental critical concern (ACEC); since then, many of these have been transferred to National Park Service units (e.g., Clark Mountain, New York Mountains, Eureka Dunes, Saline Valley Marsh and Dunes). Some other UPAs are now being proposed in the NEMO Proposed Plan as new ACECs. Among these UPAs are Carson Slough Salt and Brackish Water UPA (Carson Slough ACEC) and Valley Well Shadscale Scrub UPA (Shadow Valley DWMA ACEC).

PC #: 70 Public Concern: The Proposed should incorporate an ecosystem approach and fully protect and restore native biodiversity within the NEMO area.

Response: Some aspects of the Proposed Plan address the needs of specific threatened or endangered species (e.g., desert tortoise, Amargosa vole, Amargosa niterwort, Ash Meadows gumplant). Because, the ecosystems upon which these species depend are of fundamental importance, the Proposed Plan addressing these species’ needs incorporates an ecosystem approach. So, proposed measures address a wide range of uses (e.g., livestock grazing, vehicle access, off-road recreation, landfills, highways) and ecosystem processes (e.g., raven predation, watershed function, disease, fire, and noxious weeds) in riparian and uplandland systems.

The Proposed Plan would adopt a set of Standards for Public Land Health addressing four environmental components (soils, native species, riparian/wetland, and stream function. The Standards express “the levels of physical and biological condition or degree of function required for healthy, sustainable rangelands” (Sec. 2.1). The Native Species standard states, “Healthy, productive and diverse habitats for native species, including special status species (Federal T&E, federally proposed, Federal candidates, BLM-sensitive, or California State T&E, and unusual plant assemblages) are maintained in places of natural occurrence.” (Sec. 2.1.2.1.) Eight indicators for the Native Species Standard are given.

PC 73: The Final EIS should acknowledge potential negative effects of foot travel on habitat.

Response: Due to the remoteness and climate of the NEMO Planning Area in particular and the California desert in general, visitors use motorized vehicles to engage in most desert recreational activities, whether as the primary recreational activity (e.g., vehicle touring) or for transit to recreation destinations (e.g., designated wilderness areas). Hence, the impacts from vehicle use, whether legally traveling on existing routes or traveling cross-country where not allowed, have been the primary focus of attention relative to recovery of the desert tortoise and protection of other special status species and their habitats.

To date, substantive impacts have not been identified from non-motorized activities, such as a proliferation of trails created by hikers, equestrians, and mountain bicyclists, affecting resources associated with the NEMO Proposed Plan and alternatives. There are some specific threats, and these are outlined in Chapter 4—a few of them are summarized below. Illegal activities facilitated by motorized-vehicle access, such as disturbance or the shooting of desert tortoises, have been an issue and occurred in the desert, but are not a known factor in the NEMO planning area (see Sec. 4.2.1.2 Impacts to Wildlife). Illegal dumping (which contributes to the raven population, and resulting predation on juvenile tortoises) has been a factor throughout the CDCA, and is not specifically attributable to one user group in NEMO. Hikers, cavers and climbers are specific threats to bat maternity sites, including sensitive bat species. The nesting sites for these species are usually in caves. Parents of these species are easily disturbed during nesting and rearing, especially by people on foot (see Sec. 4.5.1).

PC 74: The Proposed Plan should designate and enforce travel routes within NEMO to meet ecological standards and restrictions.

Response: BLM is obligated under regulations and Executive orders to designate routes as described in the introduction to Section 2.10. To implement the requirement criteria were developed for the Planning Area for designating routes on BLM lands that reflect the general intent of regulation. These criteria are listed in Chapter 2, Section 2.10. Routes are proposed closed only where the criteria apply; however, in some cases, depending on the alternative, the use need of a route was more compelling than applying the criterion and the route was designated open. The other values weighed in the decisions are given for each alternative. For the Proposed Plan, consideration was given to establishing a primary transportation network and providing access to recreation destinations, and within this context, considering some washes for the transportation network. Chapter 4.12 describes the cumulative affects desert-wide from designation of routes. In designating routes no distinction is made for class of vehicle, as there are few, if any, vehicle-type conflicts in the Planning Area. Adaptive management is part of land use planning and plan change. Changes to route and area designations can occur based upon local and regional desert tortoise conservation and uses trends and changes.

PC 76: The Final EIS should not show bias towards motorized recreation in desert washes, which should be considered as desert watersheds.

PC 352: The Proposed Plan should allow recreational activity in desert washes.

Response: If motorized vehicle use of a wash damages natural features (e.g., destroys vegetation, disturbs the integrity of wash banks, or erodes soil to an unacceptable degree), BLM would not view that wash as a route of travel. A species of concern must not necessarily be documented as occurring in specific washes in order to support the closure of those specific washes to motorized vehicles. See discussion in Chapter 4 under Impacts to Special Status Animals for Routes of Travel Designations, especially for the No Action Alternative, 4.9.1. In the case of the two desert tortoise subregions, routes that did not meet certain thresholds were closed, since protection of desert tortoise habitat was paramount. In other areas of the Northern and Eastern Mojave Desert planning area, route closures and limitations through application of the 43 CFR 8342.1 criteria could lead to different conclusions, based on a different resource base, uses and conflicts. The planning process will establish the specific network for each area, and BLM encourages you to provide specific public input as the best opportunity to ensure a network that continues to meet your recreational needs. See Appendix VI of the CDCA Plan (1980) for the accepted definition of a “wash”, and the FEIS (Appendix Q, Route Designation Methodology, Sec. 2.3 Definitions) for BLM’s view of “navigability”.

PC 77: The BLM should consider permanently retiring select grazing allotments within the desert environment.

PC 95: The BLM should consider retirement of Kessler Springs triangle and retention of Valley Wells, as they are both critical to desert tortoise habitat.

PC 134: The BLM should allow third party acquisitions with permanent retirement, in particular where lands boarder the National Park Service.

PC 217: The BLM should protect the desert tortoise by permanently retiring the Pahrump, Valley View, Valley Wells, and Horsethief Springs Allotment, and the BLM portion of Kessler Springs and Hunter Mountain, from grazing.

PC 242: The BLM should phase out grazing allotments to reduce impacts to wildlife and habitat.

PC 375: The Final EIS should include a provision that facilitates voluntary relinquishment and retirement of grazing allotments.

PC 376: The BLM should support any request to permanently retire allotments.

PC 377: The BLM should work with the National Park Service to acquire and permanently retire cattle grazing permits from willing sellers.

Response: The grazing of livestock on BLM-administered lands is governed and administered under numerous laws, regulations, policies, land use plans, and activity plans. The NPS does not share the same set of governing directions. There are nine grazing allotments where BLM and NPS share or have shared grazing administration between Ridgecrest Field Office and Death Valley National Park, and Needles Field Office and Mojave National Preserve that include portions of the NEMO planning area.

The Proposed Plan provides for voluntary relinquishment of grazing leases inside desert wildlife management areas (DWMAs) where desert tortoise recovery is emphasized. Significant changes to grazing management, such as the one being proposed, occur and have occurred through land use plans where public involvement is required. Discontinuation of use or modification of a grazing lease is a land use plan decision that cannot be circumvented by BLM management.

Separate from the Nemo planning effort, Granite Mountain, Kessler Springs, and Lanfair Valley Allotments were analyzed for potential cancellation in the 1999 Proposed Plan and Decision Record. This analysis was prompted by the NPS canceling or proposing to cancel Granite Mountain, Kessler Springs, and Lanfair Valley Allotments inside the Mojave National Preserve. Analysis demonstrated that Kessler Springs Allotment was found to be a manageable grazing unit without the NPS-administered portion while Lanfair Valley and Granite Mountain Allotments were not. Shortly, after the decision record for the environmental assessment was signed, Granite Mountain and Lanfair Valley Allotments were retired at the lessee's request.

Under the Proposed Plan, the lessees for Valley Wells, Jean Lake (includes lands and is managed by Las Vegas FO, BLM), Kessler Springs, and Valley View Allotments would be afforded the same opportunity to voluntarily relinquish the lease as did the lessees for Granite Mountain and Lanfair Valley Allotments. However, unlike Granite Mountain and Lanfair Valley Allotments lack of manageability for grazing use, relinquishment of the four allotments would devote these lands to desert tortoise conservation and recovery. Upon written receipt of relinquishment from lessee, the manager would delete grazing use and other authorizations for the allotment with a grazing decision. No timetable has been established to relinquish grazing leases since it is voluntary by the owner as it is on NPS lands. As of the publish date of the MNP GMP (April, 2002), the Kessler Springs allotment is the only of these remaining allotments which has been voluntarily relinquished on NPS lands.

All but one of the four allotments has corresponding portions found inside the Mojave National Preserve. Crescent Peak and Clark Mountain Allotments are jointly administered by BLM and NPS and they are located nearby but are not within the Proposed Plan DWMAs and lessees for these allotments would not be afforded the opportunity to relinquish their lease. Grazing activities for these two allotments would continue under current authorities and biological opinions. Last Chance, Lacey-Cactus-McCloud, Hunter Mountain, and Eureka Valley Allotments are jointly administered by BLM-Ridgecrest Field Office and NPS-Death Valley National Park, but are not within desert tortoise habitat and discontinuation of grazing use on the allotments is not part of the Proposed Plan.

Clark Mountain, Horsethief Springs, and Pahrump Allotments have desert tortoise habitat within their boundaries. The FWS determined that these areas were not critical habitat. The BLM would manage these areas of habitat for the continued existence of desert tortoises. Other areas critical to the survival and recovery of the desert tortoise are consolidated in DWMAs and would be managed as ACECs, with changes to grazing management as summarized above. Consultation with the FWS would also occur for grazing activities that may affect the desert tortoise in these three allotments, in the context of the overall strategy for desert tortoise conservation and recovery in the planning area, and management is not proposed to change substantially from existing strategies to address desert tortoise conservation and recovery. .

PC 78: The BLM should restrict car camping to previously disturbed sites to protect critical habitat.

PC 328: The Proposed Plan should not include a 15 foot single-width road standard for pull-off parking and camping in ACECs and DWMA.

PC 354: The Proposed Plan should establish a standard of allowing camping only on previously disturbed areas. See Ch2-21, 2.2.4.3. Camping within 50 feet of routes within DWMA is recommended. Will this disturb the vegetation? Signs and public education are recommended. USNPS suggests 50 feet as the allowable maximum limit from routes for camping and parking.

Response: Camping is only allowed on previously disturbed areas under all alternatives—Chapter 2 has been clarified. The currently existing and Proposed Plan provides for the conservation of sensitive elements including the restriction of vehicles to designated routes and major navigable washes within DWMA. The basis of conservation of biodiversity does not necessarily require pristine environments (i.e., designated wilderness) but does consider arrays and complexities of managed uses. The 100-foot limit for stopping, parking, and vehicle camping in sensitive areas such as Areas of Critical Environmental Concern was established after considerable analysis through the California Desert Conservation Area Plan. Elsewhere in the planning area, the limit is 300 feet (see Chapter 2, Sec. 2.10.1, Motorized-Vehicle Access/Routes of Travel Designations). The only change prescribed under the Proposed Plan is that limits for these activities be measured from the centerline of a route (versus measurements from a route's edge) to establish consistency in expressing the limitations (see Chapter 2, Sec. 2.10.5).

For routes twelve feet wide, for example, the area for vehicle camping to each side of the route is reduced by six feet; for routes sixteen feet wide, by eight feet; and so forth. The effects of adjusting the existing 100 foot limits to centerline instead of edge of routes in sensitive areas are minor.

Vehicle camping alongside routes with few restrictions as to location (except as regards distance from a route) has long been a recreational opportunity unique to public lands. Over the years, hundreds of vehicle campsites (generally recognized by the presence of fire rings and evidence of vehicular access) have been established throughout the California desert (pers. comm., BLM staff). Although it is not known how many campsites have been established beyond the 100- and 300-foot limits, observations by BLM staff support a conclusion that such occurrences are not wide-ranging in the NEMO Planning Area. It is probably reflective of the amount of overall use of the area.

Restricting car camping to within 15 feet of route would result in certain intensively used areas, which could potentially expand. Route edges would become less distinct. Discriminated camping tends to distribute use and often results in use of existing disturbed areas, consistent with the guidance.

Identifying established camping areas in Areas of Critical Environmental Concern would do little to enhance opportunities for vehicle camping. The BLM is fulfilling a unique need with the route-side camping opportunity it currently provides. ACECs may also designate campgrounds to protect sensitive areas, as appropriate. These should be designated to supplement other camping opportunities or replace them in localized areas where specific resources provide evidence of impacts, or use is high enough to support the campground. The use levels throughout NEMO are generally low and well dispersed, and do not justify additional camping areas. If use and associated impacts to habitat increase, the issue can be further evaluated, consistent with the ACEC provisions for the DWMA..

PC 79: The BLM should address the issue of nuclear waste dumping within NEMO.

Response: BLM does not intend to authorize disposal of nuclear wastes on public lands within the NEMO planning area. It would not be consistent with current BLM policies. That is why the issue is not addressed in the Proposed Plan.

MolyCorp's P-16 pond is located on private land and is not regulated by BLM. The wells and the water pipeline on Ivanpah Dry Lake leading to MolyCorp's facilities at Mountain pass were approved in 1955. The water from these wells is not of drinking water quality. MolyCorp began processing bastnasite, a source of rare earths (lanthanides), in 1977. A wastewater pipeline and disposal of liquid wastes was not permitted by BLM until January 30, 1980. The California Water Quality Control Board, Lahontan Region (RWQCB) had issued waste discharge requirements on January 10, 1980. Those waste discharge requirements did not recognize that the wastes would be radioactive in nature. The wastes were handled by the RWQCB as Class B Mining Wastes.

A 1981 Plan of Operations submitted to BLM also did not mention radioactive wastes. A Revised Plan of Operations, submitted in 1986, also did not mention radioactive wastes. This plan resulted in a permit for the pipeline and evaporation ponds in the private lands on Ivanpah Dry Lake. In November 1994, BLM and MolyCorp completed a land exchange for the remaining 879.93 acres of public land within MolyCorp's facility. This resulted in the permitting authority for the mine residing completely with San Bernardino County. It was not until several unauthorized releases from that pipeline in 1996 that BLM, the National Park Service and State and County regulatory agencies recognized the nature of the wastes and ordered a cleanup of the released materials. BLM assisted the California Department of Fish and Game with the service of a Search Warrant on MolyCorp (September 1996). In November 1998, MolyCorp decided to cease using the pipeline and Ivanpah Evaporation Ponds, on land patented to MolyCorp in 1988. They planned to dispose of waste materials onsite or at permitted facilities offsite (not on public lands). This left BLM with no regulatory authority over MolyCorp's waste disposal practices. The RWQCB is responsible for regulating discharges. More recent developments relating to MolyCorp's waste disposal practices were not under the authority of BLM.

The plumes from the P-16 pond were recognized in 1987. The RWQCB Order regulating them was issued in May 1994. Although there were radiological issues with some of MolyCorp's wastes stored onsite in 1993 and with the wastes stored in some of their onsite storage ponds, MolyCorp's applications to BLM and to the RWQCB prior to 1996 characterized their wastes as Anon-hazardous. Any BLM permits issued prior to that time were issued without the knowledge of the true nature of the wastes. In September 1993, BLM wrote to the RWQCB stating our unwillingness to be listed as co-discharger on their waste discharge permit. The aquifer potentially affected by the Ivanpah evaporation ponds is not of drinking water quality. In addition, there has been a long-standing dispute among agencies including BLM, then U.S. Environmental Protection Agency, the California Department of Toxic Substances Control and the RWQCB over whether MolyCorp's wastes are exempt from regulation under the Beville amendment.

At BLM's request, the U.S. Public Health Service prepared a report (1993) which addressed the potential environmental hazards in and around BLM's Resident Ranger housing at Mountain Pass, as well as the California Highway Patrol (CHP) R&PP lease and the CalTrans facility. As a result of this report, BLM discontinued using the site housing for their employee and his family. The November 1996 Draft Environmental Impact Report, prepared by the County, addresses health risks associated with the elementary school and the CHP facility. In February 1997, BLM met with representatives of the CHP and Caltrans to discuss the potential health risks associated with their facilities at Mountain Pass. An April 1997 follow-up letter encouraged them to consider relocating their facilities and stated BLM would be happy to work with them in identifying alternative sites. In January 1998, agencies involved in the cleanup of MolyCorp's pipeline releases met with the California Department of Health Services, Environmental Health Investigations Branch - EHIB and U.S. Public Health Service, Agency for Toxic Substances and Disease Registry - ATSDR to discuss health issues and a draft risk assessment which addressed health issues at Mountain Pass. This became a component of the Environmental Impact Report prepared by the County for the MolyCorp's mine expansion proposal.

PC 81: The BLM should address daily cover on landfills to deal with raven populations.

PC 214: The BLM should analyze and address landfills that attract ravens as a potential threat the desert tortoise.

Response: In San Bernardino County, in the vicinity of critical and Category I desert tortoise habitat, local dumpsites are being closed in favor of regional landfills. Among the local dumps being closed and rehabilitated are dumps at Nipton, Goffs, Mountain Pass, and Charleston View within the Planning Area, and Essex, Vidal, Vidal Junction, Amboy, and Chambliss immediately south of the Planning Area. Further north in Inyo County, the Shoshone landfill is currently only accepting construction waste from Caltrans.

Regional landfills are operated with daily covers, and most are effective in reducing raven use (William Boarman, raven ecologist with USGS, pers. comm.). Transfer stations have been established at some locations to provide local deposition of trash.

The California Integrated Waste Management Board (IWMB) regulates the management of landfills. The counties conduct inspections with IWMB oversight.

PC 82: The Proposed Plan should require significant reduction of bat populations to restore balance to the ecology of the desert environment.

Response: Altenbach and Pierson (1995, p. 9) addressed the question of why bats cannot return to roosts used before mines were available and why we should maintain "artificial" mine roosts. They respond that much of the original habitat is no longer available. Recreational caving and commercialization have driven bats from many natural caves. Natural caves have been lost through modification (especially from mining), flooding, and quarrying. Many apparently abandoned mines were founded upon natural caves. Also, large diameter trees used as roosts have been eliminated in many areas. Even in the southwestern deserts, trees in local mountains have been harvested for use in nearby mining and railroad construction. Urban encroachment has added to the loss of habitat. In many areas, abandoned mines provide the only remaining viable roosting, nursery, or hibernating habitat. Contrary to the implication in the comment, bat abundance and diversity have greatly decreased nationwide and regionally.

PC 83: The Final EIS should detail the Public Land Health Standards proposed for the NEMO planning area.

Response: A standard is an expression of the level of physical and biological condition or degree of function required for healthy, sustainable rangelands. On the other hand, guidelines for grazing management are the types of grazing management activities and practices determined to be appropriate to ensure that the standards can be met or significant progress can be made toward meeting standards. Guidelines can vary in degree of management direction and emphasis or may not be needed at all. Proposed Plan Standards and Guidelines can be found in Chapter 2, Section 2.1.2.

The discussion for standards and guidelines starts under section 2.1 of the FEIS. The grazing regulations under Title 43 Code of Federal Regulations Subpart 4180 direct the State Director to formulate State or regional standards, but until those regional standards take effect the National Fallback Standards listed under 43 CFR 4180.2(f)(1) are to be used. The four existing fallback standards have been in effect for many years on grazing allotments in the planning area and are part of the No Action Alternative of the FEIS.

There are ongoing health assessments of public land to qualitatively review resource conditions. The assessment team composed of two or more BLM resource staff and members of the public examine field conditions and their qualitative appraisal of conditions establishes whether standards have or have not been met. Assuming standards were not met, for example, for riparian/wetland and stream function, BLM management then may choose to monitor resource conditions or change management or both. This process is designed to focus BLM's limited staff and resources to maintaining healthy lands or identifying areas that may need change.

Land Designations

PC 84: The BLM should develop sensible and objective criteria for special area protections.

Response: The BLM has developed criteria for special area protections and these are built primarily using the conservation and recovery needs of species and their underlying habitat needs. Issues that make a difference in the future of the species form the basis of the criteria. Other important factors that are considered include the level of conflicts, whether or not we have control over the issue (e.g., the weather) or the land base, and the potential for effecting positive change.

PC 85: The Final EIS should include detailed maps depicting the segments of streams considered for Wild and Scenic River eligibility.

Response: These maps have been added in the FEIS; Figure 15a, 15b, and 15c, for the Amargosa, Surprise Canyon Creek, and Cottonwood Creek segments, respectively. As for defining the segments start and endpoints, Appendix O, Appendix T, and Appendix S details information on each stream, including the tentatively eligible-segment(s) and its classification.

PC 86: The Proposed Plan should address special designation of the Silurian Hills as an Area of Critical Environmental Concern.

Response: The bat habitat features in the Silurian Hills (e.g., caves, abandoned mines, buildings, and other roost sites) and their abundance are described in section 1.3.5. For ACEC designation, an area must meet criteria for both “relevance” and “importance.” Relevance refers to whether the resource is one of the kinds of resources included in the definition of ACECs in the Federal Land Policy and Management Act. The Silurian Hills would qualify for relevance. A resource can be found to be “important” if it a) has special distinctiveness or cause for concern and b) has more-than-local significance. The bat resources in the Silurian Hills do not meet the importance standard because they are only of local significance.

PC 87: The Final EIS should include a comprehensive management plan for the Grimshaw Lake Natural Area.

Response: A comprehensive management plan for the Grimshaw Lake Area of Critical Environmental Concern exists. It was completed in June 1983. The Amargosa River Watershed ACEC proposed in the Northern and Eastern Mojave plan would evaluate the measures of the Grimshaw Lake ACEC and update them as appropriate, in the context of the additional issues and larger landscape being addressed in this planning effort. This would take place within three years of the signing of the Record of Decision.

PC 89: The Proposed Plan should designate the Greenwater Canyon Road as Multiple Use.

PC 91: The BLM should classify part of Greenwater Valley as multiple-use class Limited to protect Desert Tortoise habitat.

PC 411: The BLM should protect cultural resources by retaining Area of Critical Environmental Concern status for the Greenwater Canyon area adjacent to Death Valley National Park.

Response: Congress has already released these lands from wilderness consideration, and BLM is currently addressing the Multiple Use Class of these lands. National Park Service lands are outside the scope of this document, and have been addressed in the Death Valley National Park General Management Plan. The Record of Decision was released in late 2001, and the General Management Plan was published and made available to the public in May, 2002.

Eliminating the Greenwater Canyon ACEC designation recognizes that most of the former ACEC, as well as the significant resource values, have been incorporated into Death Valley National Park with the transfer of lands authorized by the California Desert Protection Act. The remaining resources will still continue to be managed as MUC "L" lands, which would provide adequate protection and preservation to sensitive cultural resources while recognizing that the area no longer meets both the "importance" and the "relevance" standards for an ACEC within the CDCA.

PC 92: The Final EIS should delineate specific route(s) of vehicular travel to the Dumont Dunes area while protecting natural resources and habitat within the river and riparian corridor.

Response: Routes of travel have been designated through the land use planning process for many routes in the Central Amargosa Canyon. These are listed in the Amargosa Canyon and Grimshaw Lake Natural Area ACEC Plans. Under the Proposed Plan, additional route designation for the Amargosa watershed area would occur subsequent to the Record of Decision for the Northern and Eastern Mojave planning effort, and no later than June, 2004. Access to the Dumont Dunes OHV Open Area will be a major consideration in that effort, including Sperry Wash, the northeast access to Dumont Dunes.

PC 93: The Proposed Plan should allow public use of Rice Valley Dunes, Ford Dry Lake, and Dumont Dunes.

Response: There are no proposals or alternatives to close the Dumont Dunes OHV Open Area in the Northern and Eastern Mojave Plan. There are also no other current proposals considering any closure of the Dumont Dunes OHV Area. The other two areas are located in the Northern and Eastern Colorado Planning Area and you are referred to the NECO planning effort, which is also currently underway.

PC 94: The BLM should consider fencing and maintenance of the Last Chance Allotment if it is contiguous with the Mojave National Preserve.

Response: The Last Chance Allotment is not contiguous with the Mojave National Preserve. However, the allotment is contiguous with the Death Valley National Park. The BLM and NPS have dual administration of this as an allotment as a result of the passage of the California Desert Protection Act of 1994. The lessee for the allotment has not grazed cattle in the last few years due to poor forage conditions and financial concerns. After these concerns are resolved, the cattle would graze the allotment. When grazing use does occur, cattle need to graze all of the allotment not just the BLM or the NPS portion. Fencing the boundary is not necessary and would hinder grazing management actions on BLM and NPS portions of the allotment.

PC 96: The BLM should clarify designated land areas within NEMO.

Response: Many places are signed and many are not. See Appendix A for discussion of signing strategy in DWMA's. The Bureau suggests the purchase of maps to assist users driving in the correct places. The Bureau works with a variety of media (e.g., wayside exhibits, press releases, AAA maps, brochures, flyers, web pages) to help assure that the changes to public lands are provided to the public. It is not the BLM's intention to have so many signs that the public land touring experience and/or the opportunities for backcountry exploration is substantially affected.

Wild and Scenic Rivers

PC 97: The BLM should evaluate the impacts of water diversion at Novak Camp.

PC 101: The Proposed Plan for the Northern and Eastern Mojave planning area should classify the Amargosa River, Surprise Canyon and Cottonwood Creek as eligible for Wild and Scenic River designation.

PC 104: The Final EIS should include a suitability study of the Amargosa River, Surprise Canyon, and lower Cottonwood Creek.

Response: The NEMO Plan had determined 6 segments eligible on these 3 rivers for consideration as part of the Wild and Scenic Rivers System. The tentative schedule for Suitability Analyses and accompanying Environmental Impact Statements will be included with the record of decision for the NEMO planning effort. Water diversion is an issue that would be appropriate to consider during the suitability phase. Timing may be based on available funds, the levels of controversy and types of issues, other resource availability, and opportunities to do joint planning and/or environmental impact statement analysis with related efforts.

PC 99: The BLM should address how Wild and Scenic River designations will impact river crossings.

Response: BLM's Sperry Wash project includes a portion of the Amargosa River section from Sperry Siding to State Highway 127. BLM has determined that that section of the river is eligible for inclusion in the National Wild & Scenic River System (NWSRS), and recommended that it be classified "recreational". [See NEMO Appendix O, p. O-5].

The Wild & Scenic Rivers Act (WSR) defines "recreational" rivers as "those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, that may have undergone some development along their shorelines, and that may have undergone some impoundment or diversion in the past."

For the Dumont Dunes access road, BLM currently views the Amargosa River crossing (existing concrete ford) as a shoreline development of the past. As for the other crossings upstream, BLM does not expect management changes grounded in the WSR classification, though these may arise from another source (e.g., maintenance of riparian/wetland standards).

PC 100: The BLM should consider water supply and power generation proposals when defining Wild and Scenic River recommendations for the Panamint Valley.

Response: This issue will be forwarded to the team that is addressing wild and scenic river suitability, for inclusion in scoping comments. The wild and scenic river suitability process would first determine if a particular segment meets the other criteria for inclusion in the National Wild and Scenic Rivers System. If it does so and is regionally significant, the suitability analysis would determine, with public input, wild and scenic classification. Classification reflects existing conditions. It would also consider reasonably foreseeable conditions or developments. Information that a future proposal is reasonably foreseeable would be considered in that process. The Bureau of Land Management is not the agency to apply to for application for one or more reservoirs. The State of California (Mojave Water Agency) is responsible for overseeing water rights in the State, and should be your first point of contact.

PC 102: The Final EIS should delineate proposed river corridors for all eligible streams, and prioritize private lands for acquisition, exchanges, or scenic easement purchase.

Response: For information on proposed river corridors for all eligible streams, see Appendices “O”, “S” and “T”, as updated in the Final EIS and Figures 15a, 15b, and 15c of Chapter 8. Prioritization of private land holdings changes would be expected to depend on the suitability determinations and would be coordinated with potentially affected interests, local jurisdictions, and other interested publics [See FEIS, Section 2.12.5, which provides that suitability determinations for these segments would be subsequently analyzed and completed in an EIS format.].

PC 103: The Final EIS should clarify the Amargosa River descriptions to better define segment starts and endpoints and to provide appropriate and accurate segment classification.

Response: See Figure 15a in Chapter 8 for a map. As for defining the segments start and endpoints, see Appendix O – *Wild and Scenic Rivers Eligibility Report For The Amargosa River* in the FEIS for additional detail about each segment and its classification.

PC 105: The BLM should eliminate motor vehicle use within the riparian area of Amargosa River.

Response: The central Amargosa Canyon has been closed to motorized vehicular use since 1974. Route designations for the Amargosa Canyon area within the Amargosa Natural Area Area of Critical Environmental Concern were designated in 1983, with the development of the ACEC plan. Other routes that include portions of the Amargosa Canyon, including Sperry Wash to the south of the Amargosa ACEC, are currently managed under the existing routes network.

Routes will be designated for this area within the next three years. At the time of route designation for this area, this issue will be addressed. You are encouraged to:

1. Participate in the route designation process for the Amargosa watershed
2. Identify specific routes
3. Indicate why you think this is the action that should be taken

PC 106: The BLM should reconsider the proposed Recreations classification for the portion of the Amargosa River Segment 3 downstream of the Dumont Dunes OHV Area access road.

Response: Appendix O of the NEMO DEIS identifies tentative classification for segments of the Amargosa River determined eligible for inclusion in the NWSRS. These tentative boundaries have been identified in accordance with BLM Manual 8351.31(A) Basis for Determination. The BLM Manual provides for eligibility determinations and tentative segment classifications no later than the DEIS. Consideration of alternative combinations of eligibility designations/classifications would be done through EIS alternatives prepared during the Suitability Analysis, which BLM has deferred to a later planning process; see 8351.33(C). This BLM Manual section 8351.33(C) also specifies that a river must be afforded the protection at the tentative classification level it was given when determined eligible, even if another classification is considered as an alternative in the RMP during suitability. This would be the case until the Record of Decision for the suitability analysis.

There are minor differences between the length of the segments in the NEMO DEIS and the length of the segments in the NEMO FEIS. These changes are a result of improved accuracy with GIS software and measurements. Initial segment lengths were determined by drawing a line parallel to (and .5 mile from) the river using GIS software. The lines were then measured with GIS measuring tool. The new segment lengths were computed by measuring the actual hydrology shapefile.

PC 107: The BLM should acquire inholdings and conservation easements along the Amargosa River to protect the riparian corridor.

Response: The preferred alternative calls for the BLM to acquire the State and private lands inside the proposed Amargosa River Area of Environmental Concern (ACEC).

PC 108: The BLM should consider a separate EIS for Wild and Scenic River designation of the Surprise Canyon area.

Response: The NEMO Management Plan/DEIS identifies Surprise Canyon as being eligible for inclusion in the National Wild & Scenic River System. The determination of whether or not the segment is suitable for designation will be made at a later date through a separate EIS. This environmental document will assess whether or not Surprise Canyon is suitable for inclusion in the National Wild and Scenic River System and will also examine the other potentially eligible streams in the region to determine if any of these are eligible/suitable and address regional significance. The issue of motorized access through Surprise Canyon is currently being examined through a completely separate EIS.

PC 109: The Proposed Plan should classify the upper section of Surprise Canyon as Wild instead of Scenic.

Response: BLM Manual provides for eligibility determinations and tentative segment classifications no later than the DEIS. Consideration of alternative combinations of eligibility designations/classifications would be done through EIS alternatives prepared during the Suitability Analysis, which BLM has deferred to a later planning process; see 8351.33(C). This BLM Manual section 8351.33(C) also specifies that a river must be afforded the protection at the tentative classification level it was given when determined eligible, even if another classification is considered as an alternative in the RMP during suitability. This would be the case until the Record of Decision for the suitability analysis. When the EIS for the suitability analysis begins, the public will be given the opportunity to participate, during public scoping and throughout the analytical process. BLM encourages meaningful public input in the planning process.

PC 110: The Proposed Plan should permanently close Surprise Canyon to vehicle traffic to protect sensitive aquatic habitat.

Response: The route through Surprise Canyon from Chris Wicht Camp to the boundary of Death Valley National Park will remain closed to motorized vehicle use under the current interim lawsuit closure until a final determination on route designation is made. The interim closure was not made through the NEMO plan, and it will be resolved separately. The final route determination for Surprise Canyon will be established through a separate EIS that will examine a range of alternatives for motorized access in the Canyon and assess the environmental impacts of these options. This EIS and the subsequent Record of Decision will formally designate this route as open, limited or closed to motorized vehicle use.

PC 111: The BLM should evaluate the impacts of water diversion on aquatic and riparian habitat in Surprise Canyon.

Response: The water diversion at Chris Wicht Camp in Surprise Canyon is currently being examined to determine if the diversion exceeds allowable levels provided for under current permits and water rights.

PC 112: The BLM should conduct a scientific watershed analysis on Surprise Canyon.

Response: A more thorough watershed analysis for Surprise Canyon will be prepared when the suitability determination is made through another Environmental Impact Statement to be prepared at a future date.

PC 113: The Proposed Plan should classify lower Cottonwood Creek as Scenic.

Response: The recreational classification for lower Cottonwood Creek was made because of the close proximity of the road to the creek for most of this segment's run.

PC 114: The BLM should clarify the end point of lower Cottonwood Creek and mark such location.

Response: The eastern boundary of the lower Cottonwood Creek segment will be mapped in preparation for the EIS to be prepared to determine if this creek is suitable for inclusion in the National Wild & Scenic River System.

PC 115: The BLM should assess vehicular route crossings in lower Cottonwood Creek to avoid adverse impacts to the environment.

Response: Vehicle crossings of lower Cottonwood Creek will be examined in the future to determine if these routes are causing excessive erosion and sedimentation. The installation of hardened stream crossings will be considered in the future if warranted.

Wilderness, Recommended Wilderness, and Released Wilderness

PC 116: The Proposed Plan should adhere to the California Wilderness Act pertaining to wilderness designations within NEMO planning area.

Response: The California Wilderness Act of 1984 [P. L. 98 – 425] was responsive to the Forest Service Roadless Area Review and Evaluation [RARE] II effort. That statute and the lawsuit cited above refer to lands administered by the Secretary of Agriculture through the Forest Service. As such, they are not relevant to these land use plans being prepared by the Bureau of Land Management.

PC 117: The BLM should implement a management plan regarding the wilderness portion of the NEMO planning area.

Response: The issue of wilderness management plans was not identified as a significant issue in scoping and so it is not appropriate to prepare them as part of this Proposed Plan. The preparation of wilderness management plans is a function of issues needing resolution through planning and the availability of budget and staff resources to prepare such plans. Currently, BLM only has funding to manage the wilderness areas to the required regulatory, manual, and Wilderness Implementation Schedule standards.

PC 118: The BLM should not create or expand wilderness areas or de facto wilderness areas.

Response: Wilderness areas are managed so that mineral development, commercial enterprise, permanent roads, structures and the use of mechanical transport and motorized equipment are generally prohibited by law. There is nothing proposed in this Proposed Plan for which management is essentially equivalent to wilderness. If recommendations were formulated for designation of areas as wilderness, then they would be explicitly so identified in the Notice of Intent to prepare an EIS and this document. Also, a legislative EIS would be prepared.

PC 119: The BLM should reduce or eliminate grazing in wilderness if ecosystems are being damaged.

Response: Grazing established prior to designation of wilderness shall be permitted to continue subject to reasonable regulations. The standards to reduce grazing in order to protect ecosystems are identical in or out of wilderness. The analysis of projects to mitigate impacts of grazing on ecosystems in wilderness will be analyzed in site-specific environmental assessments as provided for by the Proposed Plan. Grazing activities found to be impacting wilderness values would be modified or eliminated.

PC 120: The Proposed Plan should protect released Wilderness Study Areas.

PC 121: The Proposed Plan should classify all lands released from Wilderness Study Areas as Limited Use.

PC 122: The BLM should return released Wilderness Study Areas to full multiple use status.

PC 356: The Final EIS should ensure protection of released wilderness study areas.

Response: Under the California Desert Protection Act (CDPA, 1994), WSA public lands not designated as wilderness (an aggregate total estimated at 475,000 acres) have been returned to BLM ("released"). Under current CDCA management, whether or not BLM recommended these lands as "suitable" or "not suitable" for wilderness designation, BLM no longer is to view these lands as being subject to FLPMA Section 603 review. [CDPA, Section 104.(a)]. WSAs BLM recommended as suitable are to be the subject of further MUC decisions, and, until those decisions, BLM is to manage them under MUC L guidelines. [CDCA Plan, 1980, March 1999 reprint, p.49; Proposed Plan #53 (1982)] Determining the MUC of non-suitable lands is also considered in NEMO, since for approximately half of all released parcels some change of circumstance has occurred since 1983.

Under the Proposed Plan, BLM would classify released lands consistent with existing CDCA Plan guidance, except when surrounding MUC have changed and/or new information is provided to warrant a change. With reference to FEIS Table 2-10, for forty-one (41) parcels of released land, comparing No Action to the Proposed Plan, BLM would change five areas from Multiple Use Class Moderate to Limited, four areas from M & L to L, and two areas from L to M & L. Other areas would be the same for both alternatives. Both MUC Moderate and Limited provide for multiple uses within the CDCA (see definitions p. 13 and Table 1-Multiple Use Guidelines, pp. 15-20, in 1999 reprint of CDCA Plan). The Proposed Plan provides for the protection of sensitive resources (e.g. critical desert tortoise habitat) and/or uses where information has improved since 1983 at the time of the WSA inventory and original MUC classifications.

Desert Wildlife Management Areas

PC 123: The Proposed Plan should expand Desert Wildlife Management Areas within NEMO so that 1) the DWMAs are 1,000 square miles as prescribed by the Recovery Plan, and 2) the DWMAs include all desert tortoise critical habitat.

Response: The three DWMA units in the Proposed Plan are discussed in Appendix A, sections A.1.2.1 (Piute Valley Unit), A.1.2.2 (Ivanpah Valley Unit), and A.1.2.3 (Shadow Valley Unit). These three BLM DWMAs (see Chapter 8, Figure 6.e) would include all desert tortoise critical habitat except the area west of Bull Spring Wash in the Shadow Valley Unit. That area was excluded because it has numerous routes and disturbance from historic mining.

BLM-managed public lands within the planning area do not include sufficient high-quality habitat suitably to meet minimum DWMA requirements, taken in isolation. Section A.1.3 gives a regional perspective for the three proposed units. Including adjacent critical habitat within the Mojave National Preserve, the Ivanpah Valley Unit and Shadow Valley Unit combine to form a DWMA of about 620,000 acres. This is near the minimum size of 640,000 acres recommended in the Desert Tortoise Recovery Plan. Including contiguous critical habitat within the Mojave National Preserve and the Piute-El Dorado ACEC (DWMA) in Nevada, the Piute Valley Unit combines to form a DWMA of about 730,000 acres. This exceeds the minimum acreage requirement for a DWMA by 90,000 acres.

The only other area considered for inclusion for DWMA designation was the Northern Ivanpah Valley Unit. It was not included because it is a relatively small area (29,110 acres) that is isolated from other tortoise populations by Ivanpah Dry Lake, Interstate 15, and casino development at Primm. Furthermore, adjacent areas in Nevada were not designated DWMA in Nevada, and the Unit was not designated critical habitat.

PC 125: The BLM should reevaluate the policy to allow surface disturbing project activities only between November 1 and March 1 within Desert Wildlife Management Areas.

Response: Measure (1) in section A.2.1 indicates that in tortoise ACECs (i.e., DWMA), “ground-disturbing activities shall normally be authorized only between November 1 and March 1.” It adds that if they “must be authorized outside this window, an on-site biological monitor shall be required...” This is consistent with mitigation measures commonly applied in desert tortoise habitat at the present time. It does not constitute a prohibition on activities from March 1 to November 1.

PC 126: The BLM should work with the Mojave National Preserve on adjoining Desert Wildlife Management Area.

Response: The BLM will continue to work with the Mojave National Preserve on issues of common concern in the management of tortoise habitat. Among these issues are livestock grazing, burro herd management, utility construction and maintenance, raven control, tortoise diseases, monitoring of tortoise populations, and other project activities. The units proposed by BLM as ACECs can only meet the DWMA goal (and Category I goal) of maintaining viable tortoise populations if they are managed successfully together with adjacent units on the Mojave National Preserve and on BLM lands in Nevada. Section A.1.3 in Appendix A discusses this further.

PC 127: The BLM should fully withdraw all mining activities in Desert Wildlife Management Areas and Areas of Critical Environmental Concern.

Response: The approach taken in the proposed management for the DWMA is not to prohibit specific classes of activities (e.g., mining), but rather to limit the cumulative total of all new surface disturbances regardless of the type of activity.

Land Acquisitions and Disposals

PC 128: The Final EIS should reflect changes to the Catellus land acquisitions within the NEMO planning area.

Response: The land ownership layer for public lands is current as of May 31, 2002, and includes Phase I and II Catellus acquisitions and exchanges (See Chapter 8, Figure 1). This layer is provided to local offices by the California State Office to assure consistency. Updates from other agencies should be provided to the California State Office, 2800 Cottage Way, Suite 1834, Attn: Jeff Owyang, Mapping Sciences, Sacramento, CA, 95825-1886.

PC 129:

The BLM should not dispose of or release any public land within NEMO.

PC 130: The BLM should have legal justification before any disposal or release of public lands.

Response: The BLM has the authority under the Federal Land Policy and Management Act to dispose of public lands where it has been determined that it would be in the public interest. All actions are reviewed under the National Environmental Policy Act.

The BLM will dispose of public lands where it is in conformance with BLM's land use plans, primarily through land exchanges to block up lands for better resource management. No disposal of public lands would be allowed within an established Desert Wildlife Management Area (DWMA) under the Proposed Plan.

PC 131: The BLM should support acquiring private lands with occurrence of sensitive plant species.

Response: This proposal was not considered and evaluated in the NEMO Plan because it is beyond the scope of the proposed action as defined by the purpose and need of the EIS (see Section 1.1). It should be noted, however, that with recent acquisitions of Catellus lands, the BLM now is the land manager of the vast majority of lands in the Planning Area (see Chapter 8, Fig. 1). The next largest landowner is the State Lands Commission.

PC 132: The BLM should clarify the acquisition of private property within the NEMO planning area.

Response: All designations in the NEMO planning area are subject to valid existing rights. Land acquisitions would be on willing seller basis. The BLM has no plans on acquiring any land through condemnation.

PC 133: The BLM should collaborate with Inyo and San Bernardino Counties and affected property owners on the development of management standards for private lands, unpatented mining claims, BLM leases, and special use permits within the county.

PC 136: The BLM should collaborate with Inyo County on any release of property, including the Tecopa and Shoshone landfills.

Response: Inyo County would be a signatory to any land patent instrument. The NEMO proposal does not release (i.e., patent) any properties, but does make such a release feasible. Dialogue has been ongoing with the Inyo County planning department for several years on this issue. A patent cannot be approved until additional steps are completed. If the land is suitably zoned (the proposal now under consideration in the NEMO plan), local authorities will review it, BLM and Inyo County will complete a Land Transfer Audit report, a mineral potential report, and cultural resource report. This data will be evaluated to determine the cost/benefit analysis of transfer. If Inyo County and the BLM determine it is in their mutual interest, a R&PP patent instrument will be approved by both.

PC 135: The BLM should consider proposed land acquisitions within the NEMO area.

Response: BLM can acquire lands only if sellers are willing their land. The acres of State Lands Commission (SLC) lands in DWMAs are noted in Appendix O. The number of acres of SLC lands in Wildlife Habitat Management Areas (WHMAs) is not specified in NEMO because these lands are not proposed for acquisition. If the SLC is interested in exchanging its lands out of WHMAs, BLM would entertain such proposals, but the priority is lower than for wilderness areas, DWMAs, and other ACECs, and need is not considered compelling.

Soil, Water, and Air Quality Resources

PC 137: Most desert dirt roads in the planning area are compacted and stable with little soil erosion occurring.

Response: Continual driving over vehicle routes does cause soil compaction. Depending on the texture of the compacted soil, native plants have difficulty establishing in compacted soils. Water holding capacity in compacted soils is reduced (Brown 2001). Roads created by passage of vehicle tend to be stable when conditions are dry and dry conditions persist most of the year in the planning area. Whether wind or water creates more erosion from roads in the planning area is unknown.

Fortunately, most soils adjacent to roads provide good water infiltration due to sandy to gravelly textures. However, as roads are hardened with compaction from vehicle use, rainfall is not readily absorbed into soil on the roadbed and eventually water begins to flow downhill until exiting the road or forming a puddle. The exiting water takes with it fine soil particles and moves some of the soil contacting the watercourse. The rivulet winds its way downhill until absorbed into soil or joins another watercourse on its way to a puddle. Small channels are cut in the low road berm as water exits the road. The collection of water on the road forms puddles that drivers may enjoy or avoid hitting with vehicles. Impacts to the road occur either way when the width of the road increases as drivers swerve off road to avoid getting stuck in a puddle or the road depth (channel) increases when the vehicle is driven so as to hit a puddle with sufficient force to splash water and mud off the road. This disturbed soil would be susceptible to wind erosion once dried.

PC 138: The Final EIS should evaluate soil erosion and air quality impacts caused by concentrating vehicle use to a fewer number of roads.

Response: Alternative 1 (No Action) would close and limit almost 6% of routes, including routes limited to non-motorized use onto Ivanpah Dry Lakebed of the approximately 850 miles of routes in Category 1 desert tortoise habitat (desert tortoise subregions). Alternative 2 would close or limit about 26% of the routes in Category I habitat, including DWMAs under this alternative. Alternatives 3, 4, and 5 would close or limit about 19 %, 18 % and 19 %, successively (refer to Chapter 4, Section 4.9 for additional information). The Proposed Plan closure of 11% of routes would not cause substantial shift in vehicle use to routes that remain open. There are 354,300 acres in desert tortoise subregions and roughly every 505 acres there is a mile of road that can be used. Even with the 19% reduction in miles of routes in the Proposed Plan, due to terrain in the planning area most routes are not spread equally over subregions, including proposed DWMAs, and a portion of the routes end up at the same place or nearby (see Figures 4.a-4.h. of Chapter 8, including the fold-out map at the back of Volume 1 in the-Final Plan/FEIS). Routes may be closed based on the following considerations; plant and animal species, cultural resources, erosion potential, wildlife water source, and redundant transportation network, or a combination of these factors, depending on the alternative (see Chapter 4, Section 4.9). Soil and air impacts are discussed in this section.

PC 140: The Final EIS should include an objective or numerical landmark to facilitate soil infiltration and permeability rate determinations.

Response: The incorporation of additional values for a type or series of soil would be premature since many soils in the planning area are not known. Some of the rangeland health assessments completed during 1999 within the planning area utilized permeability and infiltration tests. These tests were inconclusive since knowledge or data on the type of soil tested was lacking. Different parameters for soils must be investigated and determined to effectively inventory soils and this process takes many years for an area as large as the planning area. Soil inventory is underway within high priority locations of the planning area, but a systematic inventory of the planning area is not occurring.

PC 143: The Final EIS should provide a rationale for closing dry lakebeds to motorized access.

Response: The Proposed Plan does not close any dry lakebeds or make changes to the CDCA Plan designations for these areas in the planning area. The lands surrounding these dry lakes are home to many threatened, endangered, or sensitive species of plants and wildlife along with cultural resources. Specifically, Ivanpah Dry Lake was closed to motorized vehicles in the CDCA Plan to preserve the integrity of the resources and to provide an obstructed area for wind dependent recreation activities and other activities requiring wide-open spaces. Access is authorized under permit. Seven of the seventeen dry lakes identified in the California Desert Conservation Area (CDCA) Plan, 1980, as amended were designated as open. Out of the remaining ten dry lakes, five offer access under permit or access on approved routes of travel. Vehicle restrictions were placed in these areas because of their unique geography. Specific route designations are made in the Proposed Plan, consistent with area designations for the Ivanpah lakebed. Under different alternatives, limitations are pulled back either at or near shoreline (No Action), or first reasonable cross-access route (Proposed Plan) off of the lakebed itself. The Proposed Plan strategy for the lakebed and routes surrounding the lakebed is intended primarily to limit conflicts between different classes of recreational users (i.e., casual users and permitted wind-based users) and also to limit lakebed damage from turnarounds on the lakebed itself.

PC 147: The BLM should request a NEPA-compliant analysis of UNOCAL's water extraction and transportation proposal in order to assess impacts to the planning area.

Response: This project is outside the Scope of the planning effort. It involves private lands, is a single project, and contributes minimally to cumulative impacts (See Chapter 4, Section 4.12). No evidence is provided to the contrary.

PC 148: The Final EIS should outline a comprehensive groundwater protection strategy for all areas of the lower Carson Slough Area of Critical Environmental Concern.

PC 149: The Final EIS should analyze the relationship between riparian flows and groundwater sources.

Response: The strategy in the Proposed Plan for Lower Carson Slough is described in Chapter 2, Section 2.4.2. Item four includes “a strategy for conservation...of ephemeral wetlands, mesquite *bosques* and riparian areas in cooperation with adjacent private landowners and other Federal, State, and local agencies.” In addition, the last item calls for “a strategy in cooperation with other Federal, State, and local agencies to safeguard surface and groundwater flows.” As stated in the first paragraph of Section 2.4.2, this strategy will be integrated with the strategy for the Amargosa River ACEC. Elements of the management plan for the Amargosa River ACEC are listed in Section 2.3.3. BLM considers that the suggestions and concerns of the comments are adequately addressed in the descriptions for the proposed ACECs.

PC 150: The BLM should discuss and commit to protecting spring sources by excluding cattle and burros.

Response: Sources of water are valuable in the Mojave Desert. The BLM recognizes the need to protect springs and adjacent riparian vegetation with modification of current management or simply fencing the riparian area. The BLM has identified areas that need some help (See Chapter 4, Section 2.1.1, Riparian/Wetland and Cattle Grazing Impacts in the FEIS), “Many of the desert spring riparian areas within the NEMO Planning Area have been rated as non-functional or functioning-at-risk (Refer to Appendix J), primarily resulting from water diversion, weed establishment, vehicle use, mining, burro use or livestock grazing. Many riparian riverine segments have similarly been rated as functioning-at-risk due to upstream water use, groundwater overdraft and/or exotic plant (saltcedar or *Tamarix ramoissima*) establishment.

Most of the places listed on page J-9 of the FEIS are affected primarily by water diversion and weed establishment. The list shows all spring and riverine segments are functioning except two springs. The list is a partial inventory of springs and riverine segments in the planning area and no explanation is provided for failure to meet the standard or for the area to be functioning at risk. In those allotments where field assessments were completed in 1999 very few riparian areas failed to meet the standard.

For example, two allotments—the Last Chance and South Oasis Allotments of the 17 allotments did not achieve standards in small areas of vegetation around two springs and a pond. The South Oasis Allotment did not achieve the standard due to weedy infestation of saltcedar at a spring and developed pond. Cattle use was not implicated in the failure to meet the standard. However, due to grazing utilization of riparian vegetation at Willow Spring within the Last Chance Allotment the riparian/wetland standard was not met. No grazing has occurred in the past three years and recovery is well underway. Future cattle grazing would not be allowed until the riparian area of Willow Spring is fenced.

Vegetation/Rangeland Management

PC 151: The Final EIS should include a vegetation map as a basis for proposed management in the NEMO plan area.

Response: Proposed Plan management is based on many factors. These goals and objectives are focused around conservation and recovery of the species and its habitat. Habitat is described for each species, and its critical habitat mapped. Additional special information about habitat, such as unusual plant assemblages and desert tortoise habitat categories is also mapped. Other vegetative characteristics of the affected environment are discussed in Chapter 3. General vegetation mapping does not provide better focus to the discussion of alternatives, areas of potential conflict, or analysis of impacts, and is therefore not included. Maps of vegetation communities in the planning area used during preliminary analysis are available at the Barstow Field Office.

PC 154: The BLM should monitor ecosystem health as it pertains to vegetation.

Response: Additional monitoring efforts are anticipated when indicators of the standards point toward the need to monitor specific components of land health. An interdisciplinary team of BLM staff and any interested public would review resource conditions, such as distribution and cover of plant species, and determine if existing conditions meet or do not meet public land health standards. Assuming standards were not met, monitoring would be scheduled for those attributes of the ecosystem needing long-term technical review. Long-term monitoring efforts are costly and would provide additional burden to an already limited field office staff. The BLM welcomes collaborative support for future monitoring efforts as recommended by the assessment teams.

PC 155: The trigger for evaluation of rehabilitation given in Appendix F does not consider important plants such as Joshua trees and cover requirements would be insufficient to maintain soils and ecological functions.

Response: The “trigger” described in Appendix F would result in a site-specific evaluation to determine whether the lands had been restored sufficiently to warrant their removal as “disturbed lands” under the 1% cumulative new disturbance limitation. As stated, “passing of the evaluation trigger alone will not remove the disturbed lands [from the cumulative disturbance], it is the point at which evaluation of lands would be initiated.” The 40% of original dominant perennial plant density and 30% cover are measures that can be made quickly and efficiently in any season of any year. Comparison can readily be made between the disturbed area and a nearby, undisturbed area. The full level of recovery would be left to the evaluation and might involve many other factors.

Project-specific restoration requirements might be quite different than the trigger and would depend upon the site characteristics and project disturbance. For example, if Joshua trees are present in the area, the restoration requirements might be to plant Joshua trees at their pre-existing density because of their value to wildlife in providing an overstory. However, Joshua trees would not be considered in the trigger due to their lack of dominance in the vegetation community. Appendix F describes some considerations for restoration planning.

PC 156: The BLM should substantiate claims that vehicle routes significantly effect vegetation.

PC 158 The BLM should evaluate closing routes within 1/4 mile of riparian and wetland areas within NEMO.

PC 321 To preserve the desert visitation experience, the BLM should allow travel routes within one quarter mile of a water source to remain open.

Response: Alternatives are evaluated that consider keeping routes to water sources open, and closing them. The Proposed Plan would strongly consider closing such routes, taking into account whether such water sources are at the terminus of a route, or whether they are adjacent to a primary transportation route, and whether other protection methods are feasible and sufficient to protect riparian resources. See Appendix Q, Table Q.1 for a list of major waters and route designation strategies proposed for those waters in the desert tortoise subregions. The environmental consequences describing the effects of the Motor Vehicle Access: Routes of Travel Designation has been strengthened to more fully describe impacts of route use on vegetation resources, including, riparian/wetland resources. See especially the impacts on vegetation of the No Action Alternative (Section 4.9.1).

PC 162: The Final EIS should evaluate impacts of human activities on biological soil crusts.

Response: The impacts on biological soil crusts are specifically analyzed for the following proposals and alternatives: Standards and Guidelines (4.1), Desert Tortoise Conservation and Recovery (4.2), Amargosa Vole Conservation and Recovery (4.3), T&E Plants in Lower Carson Slough (4.4), Organized Competitive Vehicle Events (4.8), and Motor Vehicle Access (4.9).

PC 164: The Final EIS should establish vegetation restoration requirements that reflect the pre-disturbance conditions, maintain species diversity, include annual plants, and ensure the long-term persistence of special status plants.

Response: Appendix F offers a discussion on vegetation restoration. As stated in Appendix F, the Desert Restoration Task Force will continue to address and provide information on restoration planning and techniques. This is a working group of botanists, wildlife biologists, and other specialists commissioned by the Desert Managers Group, a multi-agency coordination forum for managers. More research and testing are needed to determine the most effective restoration methods. In any event, case-by-case field applications will be needed. Appendix F lists some site considerations; these include, among others, special status species, the rarity and quality of the plant community, management goals for the area, ecological processes, and site characteristics.

The triggering criteria for site evaluation with regard to the 1% limit on new surface disturbance are not restoration criteria. See PC#155 for further discussion of the trigger criteria.

PC 166: The Final EIS should address a restoration plan for the Amargosa River area.

PC 167: The Final EIS should outline a plan to study movement of ground water in protected areas and implement action to limit effects on ground water-dependent natural resources in the Amargosa River area.

Response: Three studies of groundwater movement in the Amargosa basin are underway at the present time. One of the studies is by the National Park Service, in cooperation with Inyo County. A second study, by USGS, is the result of ongoing questions on the proposed Yucca Mountain facility for the storage of high-level Nuclear Waste. A third study is being conducted by BLM as a result of lawsuit stipulations. Data from these studies will be considered in the development of the Amargosa River ACEC Plan or other strategy selected for the Amargosa area to protect Threatened and Endangered Species. At that time, issues such as current measures for restoration and the need for additional plans will be evaluated, taking into consideration data collected from these various studies, as applicable.

PC 168: The Final EIS should protect the Amargosa River which provides habitat to federally listed plant species.

Response: Progress through the eligibility and classification steps underscores BLM's concern for protecting the Amargosa River and the resources it supports. As noted in 2.12 of the DEIS, the remaining suitability determinations are to be completed subsequently, and analyzed in an EIS format.

PC 169: The Final EIS should evaluate impacts of human activities on noxious weeds.

Response: The impacts on noxious weeds are specifically analyzed for the following proposals and alternatives: Standards and Guidelines (4.1), Desert Tortoise Conservation and Recovery (4.2), Amargosa Vole Conservation and Recovery (4.3), T&E Plants in Lower Carson Slough (4.4), Organized Competitive Vehicle Events (4.8), and Motor Vehicle Access-Routes of Travel Designations (4.9).

PC 172: The BLM should thoroughly evaluate various strategies and methods for controlling tamarisk.

Response: For some time, the BLM has had an on-going program to control tamarisk. Past efforts have focused on the removal of tamarisk in key riparian sites. In the Planning Area, major removal efforts have been undertaken in Salt Creek, in Amargosa Canyon, and at various springs. Research and experimentation on effective means of removing and preventing tamarisk infestations is continuing. In the past the BLM has used burning (primarily to open human access into thickets of tamarisk), cutting, and herbicide treatment. Some researchers (e.g., Jack DeLoach) have been investigating the feasibility of using biological controls, such as insects. The BLM will continue to participate with groups, such as the California Exotic Pest Plant Council and Desert Restoration Task Force to refine methods. It is not necessary to define specific techniques in the CDCA Plan.

PC 174: The Proposed Plan should implement the proposed Standards and Guidelines for Rangeland Health with additional science based recommendations.

PC 180: The Proposed Plan should establish a 25-35% range utilization threshold guideline to protect sensitive species habitat.

Response: The 15 guidelines and the table for utilization listed under the Proposed Plan cover a wide variety of management prescriptions for grazing use. Guidelines can be adjusted over time with additions and deletions as necessary to accommodate new scientific information. These guidelines were cooperatively developed with members of the California Desert District Advisory Council with representation from a variety of interests. Guidelines are to be utilized by managers to achieve the Public Land Standards not to make additional requirements of grazing use.

Guidelines set the tone about livestock prescriptions that would be translated into terms and conditions for the grazing lease. For example, under the Proposed Plan guideline number 9, "Grazing on designated ephemeral range land shall be allowed only if reliable estimates of production have been made, and an identified level of annual growth or residue to remain on site at the end of the grazing season has been established." This guideline translates into, "Cattle grazing would not occur until ephemeral forage reaches and is maintained at 230 pounds air-dry weight per acre." Another term and condition for grazing use from this guideline might be, "Grazing use of ephemeral forage would cease on June 1."

PC 175: The BLM should support the State of California in creating standards and guidelines for Rangeland Health.

Response: This proposal was not considered and evaluated in the NEMO Plan because it is beyond the scope of the Proposed Plan as defined by the purpose and need of the EIS (see Section 1.3).

PC 177: The BLM should develop and adopt a fire management plan.

Response: A fire management plan was adopted for all of the California Desert District, including the NEMO planning area, in May, 1998. The plan breaks down all areas of the desert by polygon into 1 of 4 fire management strategies, based on the environment and resources. Fire management strategies within the NEMO planning area vary widely, reflecting the diversity in geography and prescribed fire needs. This fire management plan is scheduled for update in 2004.

PC 178: The BLM should consider creating Guidelines for other Activities to accompany Standards of Public Land Health for the NEMO area.

Response: Key staff members who daily work with livestock grazing concerns in the CDCA are acutely aware of utilization provisions in the current biological opinions for cattle grazing and have undergone training on standards and guidelines. However, other staff members who do not directly deal with these concerns on a daily or seasonal basis would need instruction. This instruction is necessary because different groups of field office staff have oversight of different resources and activities and staff would need to coordinate management concerns on all issues. Therefore, cross-discipline instruction would need to occur prior to consideration of any additional guidelines. The four health standards from the Proposed Plan have guidelines specific to grazing management, but guidelines have not been developed for other activities. Guidelines would be established for other activities if found to be necessary to maintain the standards. If additional guidelines are developed, BLM staff would be responsible for implementation to achieve the standards.

PC 179: The BLM should provide public education opportunities pertaining to desert vegetation.

Response: Within several alternatives, including the Proposed Plan, BLM in the NEMO document proposed to have Nature interpretation kiosks or signs explaining the local biota and natural processes in the NEMO planning area. Refer to Section 4.2.2.9. The EIS process requires analysis of all sensitive plant species and a general description of plant and animal communities in the NEMO. Chapter 3 in particular contains descriptions of the flora and fauna, and Chapter 4 describes potential impacts to vegetation, by various activities. In addition, the NECO and WEMO EISs contain ample educational materials about desert flora. BLM in addition has published many other environmental assessments and popular brochures about desert flora.

PC 183: The BLM should manage livestock grazing to protect endangered species.

Response: Prescriptions for grazing use detailed under the Proposed Plan would maintain a low level of grazing use while providing measures to protect and recover the desert tortoise. The level of grazing use planning area-wide is low and slowly decreasing. For example, grazing use on two large allotments in the planning area was no longer authorized in the last two years because of manageability, where buyouts of leases occurred on shared NPS/BLM allotments. The Proposed Plan would provide the lessees an opportunity to relinquish their grazing leases (allotments) in DWMA's. Annual use of perennial grasses and shrubs by cattle is tied to sufficient spring production of ephemeral grasses and forbs in DWMA's. Continuation of mitigation measures for ongoing activities in desert tortoise habitat plus other measures for other activities such as burro use and vehicle access would lead to recovery of the desert tortoise.

PC 189: The BLM should identify trail closures implemented to protect threatened and endangered species.

Response: BLM has done so, consistent with 43 CFR 8342.1 and 8342.2 to protect Threatened and Endangered species and for other goals as outlined in the Purpose and Need (Chapter 1, Section 1.3). See Chapter 2, Section 2.10 for alternatives; the Proposed Plan can be found in 2.10.5. Specific route designations for the Amargosa subregion, including T&E plant areas of the Carson Slough drainage, would occur by June, 2004 or as otherwise agreed to in settlement C-00-0927-WHA.

PC 190: The BLM should identify data that shows OHV use is a threat to threatened and endangered species.

PC 230: The BLM should protect the desert tortoise from predation and disease rather than basing management actions on vehicle restrictions.

PC 306: The BLM should justify its claim that damage to travel routes is permanent.

Response: The environmental consequences describing the effects of the amendment addressing Motor Vehicle Access: Routes of Travel Designation has been strengthened to more fully describe and clarify impacts of route use on special status plants and animals. See especially the impacts on vegetation - special status plants and wildlife - special status animals for the No Action Alternative (Section 4.9.1). Note that in the NEMO Plan, Routes of Travel designations have only been made for the two desert tortoise subregions, but criteria are established for route designations that are to be completed in the remainder of the Planning Area by June, 2004. See PC 213 for a response on tortoise predation. See PCs 211 and 212 for a response on tortoise disease.

Floral Species

PC 193: The BLM should seasonally exclude sensitive plant species habitat from grazing until studies show impact does not occur.

PC 194: The Proposed Plan should establish a guideline requiring monitoring and mitigation for grazing impacts on all sensitive plant species.

Response: In grazing allotments within the planning area, there are no known endangered plants. Direction for monitoring is located in the Proposed Plan at the end of Section 2.1.2 in Chapter 2, after the guidelines for grazing management and Table 2.2 in the. The direction from the DEIS, "In those areas not meeting one or more standards, monitoring processes will be established if they do not presently exist to monitor indicators of health until the standard or resource objective has been attained." As assessments of standards are completed throughout the planning area, monitoring priorities would be established for those constituent components of the standard that failed during the assessment process. Most likely, resource data collection would occur for several aspects of the indicators. The BLM has limited personnel and funding resources so judicious application of monitoring efforts would occur.

Fauna

PC 195: The BLM should protect the habitat of the Mojave fringe-toed lizard, including habitat at the Dumont Dunes OHV Open Area.

Response: This proposal was not considered and evaluated in the NEMO Plan because it is beyond the scope of the proposed action as defined by the purpose and need of the EIS (see Section 1.3). However, in September 1999, the California State Director added the Mojave fringe-toed lizard to the list of BLM California sensitive species. The species and its habitat will receive the consideration warranted by such designation in the environmental review process for proposed actions. As noted by some commenters, additional inventories for this species are needed.

PC 198: The BLM should eliminate vehicle disturbance from Surprise Canyon to protect breeding habitat for the federally endangered Least Bell's vireo and the Panamint alligator lizard.

Response: This proposal was not considered and evaluated in the NEMO Plan because it is beyond the scope of the proposed action as defined by the purpose and need of the EIS (see Section 1.3). The route into the Canyon has been closed at Chris Wicht Camp on an emergency basis. The BLM is currently preparing environmental documentation evaluating a range of alternatives for the route up the Canyon, including an alternative that would close the route. The BLM portion of Surprise Canyon is within the Surprise Canyon ACEC and has a current management plan

In 2001, Laura Cunningham conducted surveys for least Bell's vireo in five areas in Surprise Canyon ACEC for BLM. No least Bell's vireos were seen during that survey.

PC 199: The Proposed Plan should include the Snowy Plover as a special status animal.

Response: In 2001, the BLM contracted for surveys at nine sites in the Mojave Desert. Three sites were in the NEMO planning area - Grimshaw Lake/Tecopa Hot Springs, Warm Sulphur Springs, and Post Office Springs.

Walter Wehtje conducted surveys at Grimshaw Lake/Tecopa Hot Springs; he observed no plovers in the area. However, he believed that “the combination of extensive alkali flats and permanent water appeared ideal for the species.” He observed northern harriers, common ravens, and loggerhead shrikes foraging over the flats; all are known predators of snowy plover eggs or chicks. Grimshaw Lake is included in the Grimshaw Lake Natural Area ACEC; snowy plover habitat needs may be adequately addressed through the ACEC planning process.

In seven visits to Warm Sulphur Springs, Laura Cunningham observed one adult snowy plover. Northern harriers, common ravens, loggerhead shrikes, California gull, and a coyote, all known snowy plover predators, were also observed. Burros were reportedly abundant at Warm Sulphur Springs. Tamarisk is present around the edges of the playa. Warm Sulphur Springs is in the Warm Sulphur Springs ACEC; snowy plover habitat needs may be adequately addressed through the ACEC planning process.

In two visits to Post Office Springs and another site one mile south, Laura Cunningham saw no snowy plovers. Burros were abundant in this vicinity, also. Coyotes were common.

PC 200: The Final EIS should address protection for threatened and endangered riparian obligate birds, such as southwestern willow flycatcher, least Bell’s vireo, and Inyo California towhee.

Response: At the present time, there are no known breeding sites for southwestern willow flycatcher in the Planning area. Least Bell’s vireos are known to breed only at Amargosa Canyon/Willow Creek in the Planning Area; this area is within a designated ACEC and will be further addressed, if appropriate, in ACEC planning. In 2001, surveys were conducted for these two species in Amargosa Canyon/Willow Creek and at Surprise Canyon. Additional surveys are being conducted in 2002 in the Planning Area at Cottonwood Creek in Fish Lake Valley, Surprise Canyon, Amargosa Canyon/Willow Creek, Mesquite Dry Lake, and Horsethief Springs.

PC 202: The Final EIS should address management actions needed to protect populations of and preserve habitat for sensitive fish species endemic to the Amargosa River.

Response: This proposal was not considered and evaluated in the NEMO Plan because it is beyond the scope of the proposed action as defined by the purpose and need of the EIS (see Section 1.3). Two BLM California sensitive fish (Amargosa River pupfish, *Cyprinodon nevadensis amargosae*, and Amargosa speckled dace, *Rhinichthys osculus amargosae*) are found primarily within two existing ACECS – Salt Creek and Amargosa Canyon Natural Area. Both ACECs have management plans addressing the needs of these and other species. An intensive tamarisk removal project has been conducted at Salt Creek over the past few years. Surface flows have been substantially increased (Thomas Egan, BLM Wildlife Biologist, pers. comm.). Some tamarisk removal has been done in Amargosa Canyon. Vehicle barricades have been constructed on some closed routes in Amargosa Canyon. The CDCA Plan provides adequate capability to manage the habitat of these two species on BLM lands. These issues may be further addressed during ACEC plan update.

Desert Tortoise

PC 205: The BLM should give desert tortoise conservation a high priority.

Response: A major element of the NEMO Plan is conservation of the desert tortoise and, more specifically, implementation of the Desert Tortoise Recovery Plan. The latter calls for designation of Desert Wildlife Management Areas (DWMAs), application of reserve-level management within the DWMAs, acquisition of lands within the DWMAs, monitoring of populations, developing and implementing a public education program, and conducting research (USFWS 1994). The proposed DWMAs are described in Section 2.2 along with a general management strategy. Goals, objectives and details of the tortoise management strategy are presented in Appendix A; issues addressed include, mining, livestock grazing, fire management, vegetation harvesting and treatment, land tenure, vehicle access, recreation, wild horses and burros, ravens, wildlife facilities, law enforcement, monitoring, public education, and research.

PC 211: The Proposed Plan should incorporate Upper Respiratory Tract Disease testing protocols for the desert tortoise.

Response: It is unclear why BLM should undertake a testing program. Certainly, as a part of the tortoise disease research program, many tortoises have been tested. Both recently dead and injured tortoises have been tested. (Kristin Berry, USGS, tortoise researcher). The BLM is not involved in an active translocation program, such as occurred in the Las Vegas Valley, that would necessitate testing. The public is advised that no tortoise, regardless of symptoms, should be released into the wild. Tortoises brought to BLM offices are delivered to a local Turtle and Tortoise Club for adoption and are not released into the wild. During project development, some tortoises are moved a short distance out of harm's way; however, such movements would normally be within the home range of the individual tortoise and would not necessitate testing. A program to test all tortoises with the intent of removing all infected tortoises from the population, if this is the commenters intent, would be cost prohibitive because of 1) the extensive range of the tortoise, covering over 5 million acres in California, 2) the intensive search required to locate tortoises, and 3) the short time (both annually and daily) that tortoises are above ground.

PC 212: The BLM should modify desert tortoise recovery plans to prevent intra-species spread of disease.

Response: At the present time, no means for preventing the spread of Upper Respiratory Tract Disease have been identified. The causative agents for various shell diseases that are decimating populations in the Colorado Desert to the south of the Planning Area have not been identified. Through various public education programs (e.g., kiosks, brochures), BLM and other agencies and organizations are trying to prevent the release of captive, possibly diseased, tortoises into the wild. Tortoises brought to BLM offices are delivered to a local Turtle and Tortoise Club for adoption and are not released into the wild. The Biological Research Division of the U. S. Geological Survey, which is the research agency for the Department of the Interior, is directing the research program on desert tortoise diseases.

PC 213: The BLM should protect the desert tortoise by developing an effective avian and mammal predator control program.

Response: Raven predation on desert tortoise hatchlings and juveniles has been well documented; Boarman (1999) reviewed the published and unpublished records. Censuses have shown that raven populations are substantially higher than even 30 years ago (Knowles *et al.* 1989).

Examination of carcasses from permanent study (i.e., monitoring) plots has shown that canid predation on all tortoise age classes is common in some areas (Kristin Berry, USGS tortoise researcher, pers. comm.). At a study site near Goffs in the mid-1980's Turner and Berry (1985) found canid destruction of tortoise nests to be 24%, 28%, and 48% over a three-year period. Historic records of coyotes and kit foxes are not available for comparison with today's populations.

The BLM has proposed a program presented in Appendix A (Sec. A.2.12) to address the raven predation issue. Some aspects of the program have been tested (e.g., targeted raven removals) and some have been implemented (e.g., closure and rehabilitation of local, unauthorized dumps on BLM lands).

Turner, F. B., and K. H. Berry (1985) Population ecology of the desert tortoise at Goffs, California, in 1985.

Knowles, C., R. Gumtow, P. Knowles, and P. Houghton. 1989. Relative abundance and distribution of the common raven in the deserts of Southern California during fall and winter 1988. Contract Rept. CA950-CT8-56 to BLM, Riverside, Calif. 44pp.

PC 215: The BLM should facilitate Desert tortoise recovery by eliminating livestock grazing from all desert Wildlife Management Areas.

PC 370: The BLM should prohibit livestock grazing in tortoise reserves.

Response: The Recovery Plan, 1994 recommends ten management actions to recover the desert tortoise. One of the recommendations from the US Fish and Wildlife Service addresses a prohibition with domestic livestock grazing in DWMA's. The Proposed Plan identifies concerns in DWMA's related to ephemeral forage competition between cattle and tortoises by tying continued grazing use of perennial vegetation with adequate seasonal production of ephemeral forage. Substantially removal of cattle from the DWMA's in years with inadequate ephemeral forage eliminates forage competition and together with potential relinquishment of the allotment would provide financial safeguards for the lessee to conclude or provide for some grazing use.

PC 220: The BLM should provide more information on the life history and habitat requirements of desert tortoise.

Response: Section 3.2.3 in the Affected Environment has been strengthened to include more information on desert tortoise.

PC 221: The BLM should establish procedures for monitoring the effectiveness of desert tortoise recovery efforts.

Response: The proposed monitoring program is presented in Appendix D. Monitoring of tortoise populations using the line-distance sampling methodology was initiated in all critical habitat units in 2001. This monitoring program is being conducted under the guidance of the Phil Medica, the Multi-agency Desert Tortoise Coordinator, a newly established position directed by the Desert Tortoise Managers Oversight Group (MOG). This program is intended to determine trends in population size for each DWMA. The program is being funded by numerous Federal agencies.

In addition, the USGS Biological Resources Division has acquired funds from several sources (e.g., CDFG, DOD) to continue monitoring the Shadow Valley, Ivanpah Valley, and Goffs permanent study plots. These studies will provide more detailed information on sex ratios, age distribution, and causes of mortality. Kristin Berry of USGS is administering these studies.

PC 223: The BLM should add Goffs Road to the list of highways to have desert tortoise barrier fencing.

Response: There are specified criteria for desert tortoise fencing (Appendix A, Section A.2.8). BLM has no vehicle counts on Goffs Road, but the highway carries much of the traffic going toward Los Angeles to/from Highway 95. Tortoise densities far exceed 50 per square mile along much of the highway, and it is entirely within the proposed Piute-Fenner DWMA. San Bernardino County has specifically requested that BLM not fence County Roads. The county would consult with CDFG as part of the consultation process if/when traffic does increase such that it becomes necessary to widen Goffs Road to four lanes. BLM would coordinate with the county to address affects and mitigation on public lands at the time of such a proposal. At that time, the county may consider highway fencing again, or other strategies to minimize any habitat compensation fees and/or as mitigation for the expansion.

PC 224: The BLM should frequently check and maintain guzzler escape ladders in desert tortoise habitat.

Response: One commenter reported vandals had removed modifications made to many (>60 observed) small game guzzlers designed to provide a sure footing for animals entering the guzzler. We concur that to ensure that small game guzzlers do not become a significant source of tortoise mortality, BLM and CDFG wildlife biologists and volunteer groups doing periodic inspections will have to ensure that proper escape footing (e.g., mesh ramps) is in place on all guzzlers.

PC 225: The BLM should analyze and mitigate utility corridor impacts to the desert tortoise reserves.

Response: Attachment 1 (Desert Tortoise Mitigation Measures) of Appendix A (Proposed NEMO Desert Tortoise Conservation Strategy) lists the mitigation measures to be applied to construction and maintenance of utilities in tortoise habitat. In addition to measures applicable to most activities, special measures are listed for application to pipelines and underground cables and to power transmission lines. USFWS will review all projects through either 1) the procedures established in the new programmatic biological opinion or 2) a project-specific consultation.

PC 226: The BLM should protect the desert tortoise by translocating them away from human generated disturbances.

Response: Consistent with the Desert Tortoise Recovery Plan, the BLM has proposed DWMA's where reserve-level management would be implemented. These DWMA's will be designated BLM Category I desert tortoise habitat. Under the BLM's Desert Tortoise Rangelwide Strategy, the goal for Category I habitat is to maintain viable populations of desert tortoise. All tortoise habitat outside of DWMA's would be Category III. The goal for Category III desert tortoise habitat is to mitigate to the extent possible. Where projects occur, tortoises may be moved out of the project area (and perhaps excluded by a fence during the life of the project) to prevent injury or mortality. However, except for such project-specific protection, tortoises will not be removed from public lands, but BLM will work to remove or reduce tortoise mortality or injury and habitat loss on public lands.

PC 227: The BLM should implement desert tortoise breeding programs to mitigate population decline.

Response: The Department of Defense has funded preliminary studies on captive rearing and release of young tortoises. Morafka *et al.* (1996) and Spangenberg (1996) reported on these studies at Ft. Irwin and use in conservation of neonatal (<1 year old) and juvenile (1-7 years old) tortoises. Captive rearing programs have been considered and investigated because 1) ravens predation on hatchling and juvenile tortoises has prevented tortoise recruitment in some area; 2) a rearing program would hold young tortoises until past the primary age of predation; and 3) disease has depleted populations below habitat carrying capacity in some areas. However, more must be learned before a project is proposed for large-scale population augmentation. Such a project may be proposed at a later time.

Morafka, D. J., K. H. Berry, and E. K. Spangenberg. 1996. Predator-proof field enclosures for enhancing hatching success and survivorship of juvenile tortoises: a critical evaluation. *In*: J. Van Abbema (Ed.), Proceedings: Conservation, Restoration, and Management of Tortoises and Turtles – an International Conference. WCS Turtle Recovery Program and the New York Turtle and Tortoise Society, New York.

Spangenberg, E. K. 1996. Field enclosures: their utility in life history studies and conservation of juveniles of the desert tortoise (*Gopherus agassizii*). M.A. Thesis, Calif. St. Univ. Dominguez Hills. 96pp.

PC 229: The BLM should study the effects of climate change on the desert tortoise.

Response: The USGS Biological Research Division is assigned the responsibility for conducting research on biological issues in the Department of the Interior. Some studies they are conducting may relate to the issue of climate change. As a participant on the desert tortoise Technical Advisory Committee, the BLM contributes to the establishment of priorities for tortoise research. These priorities are given in Section A.6. USGS considers these priorities in funding and directing research projects.

PC 231: The BLM should study the desert tortoise within designated wilderness areas to determine whether vehicles affect tortoises.

Response: An extensive monitoring program for desert tortoise has only been in place since 2001. There is some potential to determine differences, if any, in tortoise population size or trend between wilderness areas and areas where vehicle travel on roads is allowed. However, the low numbers of tortoises recorded in the existing monitoring program would not be sufficient for such analyses. The current monitoring program is intended to show a trend in population size for an entire recovery unit and not subsets of it.

In addition, between any two areas there are confounding effects, such as livestock grazing, highly localized rainfall patterns, exotic weeds, and soil contaminants. These and other differences between areas would make it difficult to isolate particular activities for analysis.

Wildlife Management

PC #: 237 Public Concern: The BLM should develop a strategy for keeping burros out of Death Valley National Park.

Response: The NEMO plan only addressed the herd management areas (HMAs) within the planning unit, which were in critical habitat for threatened and endangered plant and animal species. There are 7 herd areas (HAs) and 3 HMAs for burros which border Death Valley National Park, which are outside the scope of the Proposed Plan. The BLM Ridgecrest Field Office and Death Valley National Park continues to coordinate management efforts for population census and removals for these areas. The Inyo National Forest and the China Lake Naval Weapons Station, are two other agencies which manage wild horse and burro populations under the guidance of Public Law 92-195 (Wild Free-Roaming Horse and Burro Act, 1971) which border some of these HAs and HMAs. The future management prescriptions for these areas would be formulated through multi-agency coordinated efforts, specifically for burros.

PC 238: The BLM should remove all burro and wild horse herds adjacent to National Park Service units.

Response: Adjacent Federal lands which have different management goals and objectives, need to coordinate together on establishing management strategies that can best achieve each of the agency's mission, which may include fencing specific areas. Decisions on the Waucoba-Hunter Mountain HMA, which borders the White Mountain Burro Territory, would also need to be coordinated with the U. S. Forest Service - Inyo National Forest.

PC 239: The BLM should protect habitat by removing burros and wild horses from desert ecosystems.

Response: Continued efforts are being conducted to remove all burros from herd areas that have target populations of zero. In areas designated as HMAs, wild horses or burros shall be managed as an integral component of the public lands on the basis of multiple use and in a manner that maintains an ecological balance, to the target Appropriate Management Level (AML) based on available forage and other management factors.

PC 240: The BLM should remove the Clark Mountain Burro Herd.

Response: The Proposed Plan in the Final EIS will be to eliminate the Clark Mountain HMA in Shadow Valley and remove all burros within the Clark Mountain herd area. The Draft EIS preferred alternative, was to establish the Clark Mountain HMA on the east side of the herd area in Mesquite and Northern Ivanpah Valleys. However, waters are limited in these valleys, and based on NPS management of key water sources and the need to prevent substantial drift back into the Proposed DWMA (Shadow Valley) where the original HMA was located, the Proposed Plan was changed.

PC 241: The BLM should proportionally reduce herd size where Herd Management Areas have been reduced by the California Desert Protection Act.

Response: Table K-1 Current Status of California Desert Burro Herd Areas and Herd Management Areas, has been added to Appendix K, wild horse and burro section, to reflect the reductions in burro habitat and AML from the CDPA, and additional discussion has been added to Chapter 3. Section 3.5 and to Chapter 4, Section 4.12, Cumulative Impacts.

PC 243: The BLM should examine the effects on natural balance by manmade water sources and enhancements to support livestock and wildlife.

Response: Guzzlers are not specifically proposed under the Proposed Plan, and requests to install guzzlers would be reviewed on their own merits and tackled by each field office on a case-by-case basis. Installation of water sources to improve cattle distribution would be dependent upon the lessee continuing the grazing lease in a DWMA. If grazing use continues in a DWMA, range improvements would be reviewed by staff from BLM, FWS and the lessee for appropriate placement and potential placement of mitigation measures.

PC 244: The Proposed Plan should recognize and maintain high elevation “sky island” ecosystems that harbor relict species and species commonly occurring in other bioregions.

Response: This proposal was not considered and evaluated in the NEMO Plan because it is beyond the scope of the proposed action as defined by the purpose and need of the EIS (see Section 1.3). However, the Desert Protection Act of 1994 transferred many of the high-elevation mountain ranges in the NEMO Planning Area that have relict species to the National Park Service. For example, the New York Mountains, Providence Range, and Clark Mountains are now in the Mojave National Preserve. The Last Chance Range and upper elevations of the Panamint Range are now in Death Valley National Park. The Kingston Range remains in BLM ownership; it is commonly recognized as a “sky island.” The Kingston Range is in the Kingston Range Wilderness Area. The Inyo Mountains, which contain relict species, such as Inyo Mountains slender salamander, are in the Inyo Mountains Wilderness Area. See also, the response to comment #197 addressing management of Gila monster.

PC 245: The BLM should ensure that route densities meet criteria for tortoise critical habitat needs.

PC 335: The BLM should limit the number of miles of vehicle routes to 18 miles per township in Desert Wildlife Management Areas and 24 miles per township in the remaining areas of BLM lands in the Northeastern Mojave.

Response: No specific route density criteria were recommended in the Desert Tortoise Recovery Plan nor are criteria proposed in the Proposed Plan. Other land management goals overlap those of tortoise critical habitat (and proposed tortoise DWMA's). For example, in wilderness areas, there are no roads open for public travel. And conversely, in utility corridors, utility service roads create zones of higher than average route densities. The proposed route network is intended to provide public access needs and meet tortoise conservation purpose and need, consistent with 43 CFR 8342.1 criteria. With the relatively low density of routes in the desert tortoise subregions in the planning area, the very establishment of a route network using the inventories will accomplish reasonable route densities. For the specific Proposed Plan network, see the fold-out maps in Volume 1, and all alternatives are found in Chapter 8, Figures 4a through 4h.

Human Environment, Recreation, and Travel

Recreation and Access

PC 249: The BLM should ensure continued opportunities for multiple-use recreation within the CDCA planning area.

Response: Departmental regulations control BLM designations of land areas and Routes of Travel [43 CFR 8342 *et seq.*]. Although these designations can occur simultaneously, they are different designation actions. For example, within an area BLM has designated as “Limited” with respect to uses of the land, the agency also can designate a route as “open” for use by motorized vehicle operators. While some NEMO Plan alternatives would move BLM to designate routes as “closed” or limit use of motorized vehicles, none of those alternatives involve area closures.

In other words, the Proposed Plan is designating Routes of Travel. It is not designating the areas that those ROT are in. All of the areas that the planning effort is designating ROT for are designated under the CDCA Plan as “Limited”. BLM is not designating ROT in closed areas (e.g., designated wilderness). Nor is BLM designating ROT in OHV Open areas (Dumont Dunes). This has already been addressed in the OHV Management Plan. The OHV Management Plan may be modified in the future, just as route designations in ACEC Plans may be modified in the future, through the Proposed Plan process, but they are not being accomplished in this Proposed Plan.

The current set of CDCA lands (California Desert Conservation Area) closed to motorized vehicle use is composed of wilderness areas (designated by statute), some special areas (e.g., ACECs, that is, areas of critical environmental concern) if the closure or limitation is a product of the approved management plan, and some other areas listed by name in the CDCA Plan, 1980, as amended.

Opportunities for use of motorized vehicles on other California Desert public lands, including use by those with disabilities, continues to be available without limits unless BLM finds that such use is, or is becoming, incompatible with other land holdings, uses or resources protected by law (e.g., private property rights, commercial rights-of-way, or resource protection for critical elements). It is under such circumstances that BLM’s requirement—to make route designations consistent with 43 CFR 8342.1 on the public lands becomes more challenging, especially as recreation demand grows in step with population increases.

PC 250: The Proposed Plan should establish that a greater number of roads and trails be left open for recreational use.

Response: The opportunity to participate in and shape the decision making process was widely distributed to affected parties, including local and state agencies. Modifications to route designation recommendations have been considered from the inception of this planning effort and in the decision making process. As a result of public participation, the Bureau adapted several of those recommendations whether it was to close a route or reopen a route and modified our plan alternatives. These changes are reflected in Appendix Q. Given that the public was formally noticed, given the opportunity to comment on the proposed alternatives, and that their opinions were considered and modifications were made to route designations, no decisions were made in an arbitrary or capricious manner.

PC 252: The BLM should improve availability and quality of public information regarding travel plans on public lands.

Response: Currently, Desert Access Guides (a set of thirty-one 1:100,000 scale maps depicting routes of travel, surface management status, and points of interest among other map features) are widely distributed through independent vendors as well as BLM offices in the California Desert District. Implementation of route designation decisions made through the Proposed Plan includes signing routes, installing informational kiosks at key locations, and distributing printed media regarding the availability of motorized-vehicle recreation opportunities (see Sec. 2.10, Motorized-Vehicle Access/Routes of Travel Designations). Upon revision of the Desert Access Guides when determined to be appropriate, changes in route availability, where applicable, will be made.

PC 254: The BLM should hold public forums to address concerns of local residents regarding land-use management decisions.

Response: Please refer to the introduction of this Appendix to view the history of extensive public hearings held regarding this Plan and EIS, and read the BLM's responses to the over 400 comments received on land-use management decisions. Demographic information on commenters, including geographic representation, is found at the end of the Public Comment and Response Section (U.2). See Tables U.1 and U.2.

PC 255: The BLM should consider the needs of local residents when making land-use decisions.

Response: Chapter 5 of the FEIS describes in detail the public involvement process that included public scoping comments, public outreach and meetings, legally required public involvement steps and comment periods. All public comments received during the extended comment period were analyzed and categorized by an independent team from outside the California Desert District. See U.1.3 and U.1.4 in the Introductory Section to these Public Comments and Responses for further explanation. Following the independent comment analysis, the public concerns were analyzed and addressed by resource specialists and considered by BLM managers. The comments were not weighted by the number received or counted as vote, nor was special consideration given to comments received from a particular geographic region, organization, or individual. Future public involvement strategies will likewise be designed to provide for adequate public input, including those for future route designation efforts.

PC 256: Alternative 2 of the Final EIS should provide an accurate evaluation of recreation impacts from proposed measures to protect the desert tortoise.

Response: All alternatives, including Alternative 2, have been strengthened to more fully describe the impacts of recreational activities and vehicular access on conservation and recovery of desert tortoise. See Chapter 4, Sections 4.2.1 (No Action), 4.2.2 (Alternative 2), 4.2.3 (Alternative 3), 4.2.4 (Alternative 4) and 4.2.5 (Proposed Plan). Likewise, analysis has been strengthened for impacts on recreation activities and vehicular access. See the discussions of Motor Vehicle Access-Routes of Travel designations, Sections 4.9.1 (No Action), 4.9.2 (Alternative 2), 4.9.3 (Alternative 3), 4.9.4 (Alternative 4) and 4.9.5 (Proposed Plan), and specific to Competitive Events, Sections 4.8.1 (No Action), 4.8.2 (Alternative 2), 4.8.3 (Alternative 3), 4.8.4 (Alternative 4) and 4.8.5 (Proposed Plan).

PC 257: The BLM should consider equally the impacts from various recreational activities.

Response: Visually evident cross-country trails can be caused by recreation activities other than the use of motor vehicles. In some (though not all) situations, the visual evidence is comparable. BLM also recognizes that, in the California desert, many recreation activities, to varying degrees, depend on the use of motor vehicles for practical access. As a result, from a visual effects standpoint, BLM does consider, “equally”, these impacts of recreation activities. Furthermore, in some circumstances, non-motorized and motorized use of trails can be equal in their impacts on resources. However, there should be a reasonable understanding that the use of motor vehicles can have distinctive products (e.g., air quality and noise) that result in wildlife reactions markedly different from those caused by non-motorized uses, and one of its benefits is that it facilitates increased access for non-motorized use. While some non-motorized users may start their riding or hiking from their homes or stables, the majority do not, because of the general remoteness of the planning area. Therefore, non-motorized users are also, to some extent, motorized users. In addressing motorized use, one is addressing essentially all recreational users. The additional impacts motorized recreationists cause once they get to where they are going, if they are doing more than touring, is addressed separately as well, to the extent the additional impacts are substantially (e.g., illegal dumping, shooting, etc. See Chapter 4, Section 4.2.1).

PC 258: The Final EIS should evaluate impacts to Desert resources resulting from proposed dispersed recreation limits.

Response: Under the Proposed Plan, the extent of route closures is not substantial (see Sec. 4.9, Motor Vehicle Access-Routes of Travel Designations). Further, the overall level of motorized-vehicle use in the NEMO planning area is considered to be low (see Sec.3.13.9 Motor Vehicle Access). Even taking into account cumulative impacts, the changes to the network are not considered significant. Wilderness lands did not have a substantial network of routes before they were designated. Previous levels of use on specific routes to be closed under the Proposed Plan are not known, but considered to be low consistent with the characterization of the overall use levels in the area. Whether the limited number of vehicles that previously used the closed routes will instead use the remaining open routes or go somewhere else remains to be seen, but a shift in route use within the area is reasonable to expect. Shifting low levels of use from a small proportion of routes to the abundance of remaining routes that likewise receive low levels of use is not anticipated to affect resource values, whether recreational, natural, or cultural.

Safety impacts were considered throughout the designation process. However, route closures apply to casual use only. Access on closed routes by motorized vehicles is prohibited except primarily for fire, military, emergency, or law enforcement vehicles when used for emergency purposes or vehicles whose use is expressly authorized by an agency head under a permit, lease, or contract. (See 2.10 Motor Vehicle Access: Routes of Travel Designation).

Some people feel that various other desert closures- is a subtle but effective program to herd OHV users onto small “OHV ghettos,” leaving the rest of the desert open only to those who engage in the kind of recreation preferred by BLM. There is no evidence to support that the number of visitors will decrease as a result of route closures. An existing route network of open routes in DWMA's totaling 681 remains available for casual motorized-vehicle use. OHV users will continue to enjoy access to these parts of the California desert through use of the network of existing routes in the entire planning area, and through the route designation process in the other subregions, on a substantial proportion of those routes, yet to be determined, using the process proposed in this Plan.

PC 259: The Final EIS should analyze state-wide cumulative recreation impacts resulting from proposed management activities.

Response: An analysis addressing cumulative impacts to recreation on a statewide basis is beyond the scope of the NEMO Plan. The scope of cumulative impacts analyses to recreation in the context of the NEMO Plan is limited to the California Desert Conservation Area. These impacts are described in the cumulative effects section at the end of Chapter 4. As additional information is provided, the later plans can further refine cumulative impacts analyses, as appropriate.

PC 260: The Final EIS should contain a corrected version of the No Action Alternative for the Barstow-to-Vegas Race Course showing a gap where the Mojave National Preserve is located.

Response: The maps have been corrected to show a dashed line through the Mojave National Preserve. The route through the Preserve, although no longer available, is the route that is currently described in the CDCA Plan. That is one of the needed corrections we are addressing through this planning effort.

PC 261: The BLM should clarify language in section 3.13.9 of the Draft EIS.

Response: The quote “but these routes are quickly destroyed if vehicles travel everywhere” is from p. Chapter 3-63 of the DEIS, which erred clerically when quoting from the CDCA Plan (1980, as amended, March 1999 reprint, p.75, left column). The DEIS passage should have read “... but these resources are quickly destroyed if vehicles travel everywhere.” The same quote can be found on p.87 of the original CDCA Plan (1980).

PC 262: The BLM should not close proposed recreation facilities, as this would violate the Outdoor Recreation Act of 1963.

PC 384: The BLM should withdraw proposed closure of public lands within NEMO, as they do not have the jurisdiction to sign the proposed closures.

Response: The Proposed Plan closes an additional 6.6% of routes to motorized vehicles and limits an additional 7% of routes, not 96%, to the use of outdoor recreationists. Approximately 81 percent of routes of travel would be designated open in the areas identified for conservation and recovery of desert tortoise. An approved network of open routes and outdoor recreation facilities would be available to enjoy. No access to special areas or sites would be denied as a result of the Proposed Plan. All routes of travel proposed for closure have supporting documentation. The Proposed Plan would not result in a reduction of facilities because there remains an abundant number of routes to travel on. See Chapter 8, Figures 4a and 4b or the fold-out inserts at the back of Volume 1 for the proposed route network maps in the desert tortoise subregions. The authority to designate routes of travel is described in the Purpose and Need and Scope, Section 1.3 of the planning effort.

PC 263: The Final EIS should provide discussion of current trends regarding the reduction of motorized recreation opportunities on public lands.

Response: Cumulative impacts to recreation and motorized-vehicle access, including a discussion of current trends regarding motorized recreation opportunities on public lands, are addressed in the cumulative effects section at the end of Chapter 4 (Section 4.12). This analysis has been strengthened for the Final Environmental Impact Statement.

PC 264: The Final EIS should provide analysis of public demand for motorized recreation.

Response: The BLM recognizes that the closures will displace some OHV users who utilized the areas for recreational activities. However, BLM has made concerted efforts to minimize adverse effects to motorized recreation. BLM still allows motorized recreation opportunities on many routes throughout the planning area. The primitive experience can still be achieved from the remaining routes available for use in the desert tortoise subregions.

PC 265: The BLM should thoroughly analyze impacts from proposed route closures to motorized recreation throughout the CDCA planning area.

PC 266: The Final EIS should include an analysis of cumulative impacts to motorized recreation.

PC 301: The Final EIS should provide an analysis of impacts to the human environment from closing roads.

Response: Cumulative impacts to recreation and motorized-vehicle access are addressed in the cumulative effects section at the end of Chapter 4. This analysis has been strengthened for the Final Environmental Impact Statement (See especially Chapter 4, Sections 4.12.11 and 4.12.13).

PC 267: The Final EIS should analyze cumulative impacts associated with loss of motorized cross-country travel opportunities.

Response: Except in areas designated “open” to motorized vehicles in accordance with the California Desert Conservation Area (CDCA) Plan and the regulations at 43 CFR §8342.1, motorized cross-country travel is prohibited throughout the CDCA. Cumulative impacts associated with increasing limitations imposed over time on recreational activities that rely on the use of motorized vehicles are addressed in the cumulative effects section at the end of Chapter 4 (See especially Chapter 4, Sections 4.12.11 and 4.12.13).

PC 268: The Final EIS should address the cumulative effect of closing routes within a loop trail system.

Response: Connectivity of routes providing loop opportunities was not an issue in the NEMO planning area. No closures of routes comprising known loop systems occur in the DWMAs. Some routes that were once components of loop systems were closed in areas designated as wilderness upon passage of the California Desert Protection Act of 1994 (Public Law 103-433).

PC 269: The Final EIS should contain an analysis that compares the number of miles and acres available for non-motorized recreation versus the number of miles of roads and trails available for motorized recreation.

Response: As a result of this public comment, additional information regarding route structures and composition has been inserted into Chapter 4, Section 4.9. See also Appendix Q for additional details on routes of travel process, include the inventory, and a summary table of specific route designations with rationales (Table Q.2). With respect to non-motorized use, generally public lands are available for use unless specifically closed.

PC 270: The BLM should consider the exploration and solitude values provided by motor vehicle travel.

Response: BLM agrees that considering these values (e.g., exploration, solitude) to the FEIS list of vehicle values would tend to complete the picture. Like other values, however, these are subject to BLM's regulatory designation criteria (for areas as well as trails) at 43 CFR 8342.1 for: Protecting public lands resources; promoting the safety of all users of the public lands; minimizing conflicts among the various uses of those lands; minimizing damage to soil, watershed, vegetation, air, or other resources of the public lands; preventing impairment of wilderness suitability (lands under wilderness review); minimizing harassment of wildlife or significant disruption of wildlife habitat; giving special attention to protecting endangered or threatened species and their habitats; locating areas and trails so as to minimize conflicts between OHV use and other existing or proposed recreational uses of the same or neighboring public lands; ensuring compatibility with existing conditions in populated areas (taking noise and other factors into account); locating no trails in officially designated wilderness areas; and, locating areas and trails in natural areas only if the authorized officer determines that OHV use there will not affect, adversely, the values (e.g., natural, esthetic, scenic) for which the natural areas were established.

Also, "Due to higher levels of resource sensitivity in Class L, vehicle access will be directed toward use of approved routes of travel. Approved routes will include primary access routes intended for regular use and for linking desert attractions for the general public as well as secondary access routes intended to meet specific user needs." [CDCA Plan, 1982 Amendment #3].

PC 271: The BLM should recognize that most travel on primitive and four-wheel drive roads is light.

Response: BLM recognizes these current conditions of use (Page 3-64 DEIS). It also recognizes that population growth trends are likely to be a continuation of the last 20 years in the Las Vegas Valley (See 4.12 discussion). By definition, any plan, the NEMO Plan included, may anticipate and build in reasonably foreseeable future conditions as a valid component—in fact it is expected that a planning document should do so. It is with potential growth in this planning area's future and with the lessons of other areas within the CDCA that have already experienced such growth in mind, that a long-term balance is sought.

PC 272: The Final EIS should provide clarification between impacts of off-road vehicle use that occurs because of straying off of routes and those that occur during normal use of routes.

Response: This analysis has been strengthened and clarified for all alternatives in the FEIS. The primary opportunity for impacts off of existing routes are associated with the various vehicular camping options along open routes. These range from using disturbed areas between 50 feet and 300 feet of centerline of the route. See Chapter 4, Section 4.9.1 (No Action) and other alternatives for the analysis of impacts.

PC 273: The BLM should inventory and preserve existing motorized routes.

Response: A comprehensive inventory of all existing motorized routes began in 1996 and continues. Individual route inventory sheets were prepared for the majority of routes included in the inventory. From the data collected, primary information was extracted and inserted on-the route (e.g., some non-existent routes; see definitions in Chapter 2, Section 2.10) Within the desert tortoise subregions, route designation occurred according to 43 CFR 8342.1, and additional criteria (See Chapter 2, Section 2.10.5) The process is further detailed in Appendix Q, along with specific route designations.

PC 274: The BLM should restrict motorized use to designated areas.

Response: Use of vehicles is restricted to designated routes of travel except in OHV open areas. The existing Dumont Dunes OHV open area in the Planning Area is classified open for motorized use per the CDCA Plan, and is not subject to route designation. All routes of travel and navigable washes in the two inventoried subregions (Category I desert tortoise habitat) are designated open, closed, or limited in the Proposed Plan and each alternative. Other subregions will be subsequently inventoried and designated in the same manner, throughout the planning area.

PC 277: The Proposed Plan should ensure the off-highway vehicle exclusion barrier does not interfere with the vehicle route to Sperry and up Sperry Wash.

Response: Currently, any OHV exclusion barrier installed is the result of evidence of vehicle excursions off the subject route. If such a barrier is installed in or along the (legislated) Sperry Wash corridor, it would be the result of evidence of vehicle traffic into the Kingston Range Wilderness lands that border the corridor on both sides. If such a barrier is installed beyond the south or northeast ends of that corridor, it would be the result of evidence of vehicle use of an inappropriate nature (including parking and/or stopping more than 300 feet from the route, unless BLM, as required by its duties and/or commitments, applies a lesser dimension). When the Sperry Wash Corridor is examined as part of a subregion for Routes of Travel designation, alternative strategies may be examined, consistent with CDPA provisions.

PC 282: The BLM should allow motor vehicle access in Dumont Dunes.

Response: The Proposed Plan did not make motor vehicle access designations in the Dumont Dunes Off-Highway Vehicle Open Area through this planning effort. The area remains classified as "Open" for vehicular use. No route designation occurs in areas classified as "Open" for vehicle use. Vehicles are permitted throughout this and other OHV Open areas, except where specifically signed or otherwise closed (e.g., fenced), which may include along during special activities, such as along a racecourse, or around defined sensitive areas.

PC 285: To ensure continuing motorized recreation opportunities, the BLM should create new trails when existing trails are closed.

PC 286: The BLM should maintain and expand the existing trail system in the CDCA planning area.

PC 287: The Final EIS should ensure that opportunities for motorbike recreation would continue.

PC 288: The BLM should provide loop trails on public lands for motorized recreation.

Response: BLM is obligated under regulations and Executive orders to designate routes as described in the introduction to Section 2.10. To implement the requirement criteria were developed for the Planning Area for designating routes on BLM lands that reflect the general intent of regulation. These criteria are listed in Chapter 2, Section 2.10.2. Routes are proposed closed only where the criteria apply; however, in some cases, depending on the alternative, the use need of a route was more compelling than applying the criterion and the route was designated open. The other values weighed in the decisions are given for each alternative. For the Proposed Plan, consideration was given to establishing a primary transportation network and providing access to recreation destinations, and within this context, considering some washes for the transportation network. Chapter 4.12 describes the cumulative effects desert-wide from designation of routes. In designating routes no distinction is made for class of vehicle, as there are few, if any, vehicle-type conflicts in the Planning Area. Adaptive management is part of land use planning and plan change. Changes to route and area designations can occur based upon local and regional desert tortoise conservation and uses trends and changes.

PC 289: The BLM should consider mitigation measures prior to motorized use restrictions.

PC 290: The Final EIS should include mitigation measures to reduce impacts to off-road vehicle recreation.

Response: BLM is bound by its regulations at 43 CFR 8342, which require designation of public lands areas and trails as either open, limited or closed to off-road vehicles. In BLM's view, a route designation of "limited" would be evidence that BLM has considered and adopted mitigation measures. If "motorized use restrictions" are mitigation measures (i.e., these are concurrent rather than sequential), then this public concern, in reality, may be focused on route closures rather than "restrictions". No areas are closed to motor-vehicle access-the route network has 6.6 percent more closed routes and 7 percent more limited routes than the present network. Permitted event may continue, under terms of the programmatic biological opinion essentially as they have for the last ten years.

PC #: 292 Public Concern: The BLM should not use noise from motorized vehicles as a reason to limit motorized activities.

Response: Noise was not an issue and not included as a criterion developed for the NEMO planning area routes designations.

PC 293: The BLM should ensure adequate trail signing and maintenance along travel routes.

PC 331: The BLM should choose an alternative that ensures the “closed unless posted open” policy.

PC 332: The Final EIS should establish that motorized travel routes through desert tortoise habitat are closed unless posted open.

Response: Upon signature of the FEIS, an implementation, monitoring, and maintenance plan will be written which will address signing, monitoring, and maintenance of routes and washes. The specific signing strategy for the area will be established locally, but see also Appendix F-*Surface Disturbance and Rehabilitation Strategies* which may apply to closed routes as well.

PC 296: The BLM should eliminate competitive vehicle events in the Desert Wildlife Management Areas.

PC 297: The BLM should limit competitive vehicle events to Open Intensive Use Areas.

Response: Competitive vehicle events are proposed to be eliminated in desert tortoise DWMA's in the Proposed Plan. Under the Proposed Plan (Chapter 2, Section 2.9.5), “Competitive vehicle events may only be held in MUC I with an area designation of “Open”, or on specified recreation routes delineated and designated in the CDCA Plan.”

By adoption of this provision, through use of specified recreation routes delineated and designated in the CDCA Plan, BLM would satisfy the 43 CFR 8342.1 mandate by basing such designations on protection of public lands resources, promotion of the safety of all users of the public lands, and minimization of conflicts among the various users of the public lands. Through location of trails, BLM also would satisfy the 43 CFR 8342.1(c) mandate, taking into account noise and other factors, by minimizing competitive event conflicts with other existing or proposed recreational uses of the same or neighboring public lands, and ensuring the compatibility of competitive events with existing conditions in populated areas. Note that, by minimizing the potential number of competitive events held outside of OHV Open Areas annually, BLM proposes to minimize competitive event conflicts with other existing or proposed recreational uses of the same or neighboring lands.

PC 298: BLM should allow some permitted motorized recreation events in Desert Wildlife Management Areas.

Response: Noncompetitive, Dualsport events will still be permitted seasonally through the Desert Wildlife Management Areas in the Northern and Eastern Mojave Planning Area, under the existing district wide biological opinion. All open routes will be available for such events, unless specifically limited for such use, which is approximately 81% of the existing network of routes.

PC 299: The BLM should reopen the Barstow to Vegas race course.

Response: Under NEMO Plan (No Action) Alternative 1, competitive event proposals would continue to receive the same consideration they have received since the last Barstow to Vegas event (1989).

Under Alternative 2: “Competitive vehicle events may only be held in MUC I with an area designation of “Open”.

Under Alternative 3, for all public lands outside areas designated as “Open”, regardless of MUC, competitive event permits would be subject to compliance with a set of criteria (see FEIS 2.9.3).

Under Alternative 4 (see 2.9.4), BLM would designate a replacement Barstow to Vegas Race Course and allow one event per year, the course to avoid critical desert tortoise habitat, ACECs, wilderness areas and other sensitive resources consistent with Alternative 3 criteria.

Under BLM's Preferred Alternative 5 (Similar to Alternative 2, but with an additional allowance): "Competitive vehicle events may only be held in MUC I with an area designation of "Open" or on specified recreation routes which have been delineated and designated in the CDCA Plan." See Chapter 4, Section 4.8, particularly 4.8.1 for impacts of the event, and 4.8.5 for impacts of the Proposed Plan.

PC 300: The BLM should increase law enforcement presence during motorized recreation events near Dumont Dunes.

Response: This issue is outside the scope of this planning effort. Please provide your input to the appropriate Authorized Officer (Barstow Field Office).

Travel System

PC 302: The Final EIS should provide information on the positive trends and aspects of road travel in the desert.

Response: Adequate information on desert travel is provided to address the issues in this plan. BLM's intention here is to fulfill its obligations under the EIS requirements of the National Environmental Policy Act (NEPA). Additional information may be found in the Motor Vehicle Access Element of the CDCA Plan.

PC 303: The Proposed Plan should clarify the long-term goals for travel route closures.

Response: The Proposed Plan represents the long-term goals for the Routes of Travel network in the desert tortoise subregions. In other words, 11 percent of the routes would be permanently closed, 8 percent would be limited, and approximately 81 percent would be open to motor-vehicle use. The long-term goal for closed routes would be their rehabilitation, either by natural or assisted means. Rehabilitation techniques are discussed in Appendix F.

PC 305: The BLM should conduct an on-the-ground assessment of multiple-use values for all existing travel routes.

PC 325: The Final EIS should provide an analysis of the proposed route network for the NEMO area.

Response: Additional information on the need for this action is set forth in the Rationale section of this Decision Record. The biological and scientific data which identifies the impacts of motorized vehicle use on desert tortoise and its habitat is set forth in the References section of this Decision Record.

PC 307: The BLM should explain the change of definition for the term “maintained road.”

Response: The definition of a maintained road as described under the NEMO Plan (see Sec. 2.10, Motorized-Vehicle Access-Routes of Travel Designations), thereby modifying the definition appearing in the California Desert Conservation Area Plan, was established to distinguish between two categories of dirt routes, these being routes maintained with the use of machines and routes maintained simply by the continuous passage of vehicles. Routes in the first category (along with paved roads) are designated “open” under the Proposed Plan as an exception to application of biological parameters (see Chapter 2, Sec. 2.10.2, 2.10.3, 2.10.4, or 2.10.5, depending on alternative), unless it is determined that use must be limited for other reasons. Routes in the second category are subject to application of the biological parameters.

Paved roads, maintained dirt routes, and recreational touring routes comprise the backbone of motorized-vehicle access in the desert tortoise subregions. Unmaintained dirt routes designated “open” or “limited” provide additional opportunities for motorized recreation, consistent with criteria under the Proposed Plan. These Plan criteria are sufficiently flexible to provide for additional opportunities in route subregions with fewer conflicts or provide for additional closures in subregions with more conflicts..

PC 308: The Final EIS should disclose decision criteria for road closures.

PC 309: The BLM should revise criteria for road closures.

PC 310: The BLM should adopt the National Park System’s process for road closure decisions.

Response: Criteria relative to the NEMO route designation process are described in Section 2.10 (Motor Vehicle Access: Routes of Travel Designations). Criteria that relate to recovery of the desert tortoise and protection of special status species and their habitats, and developed in furtherance of the criteria at 43 CFR §8342.1, are excerpted from Sections 2.2 (Threatened and Endangered special status species protection: Desert Tortoise) and 2.4 (Threatened and Endangered plants). Application of these criteria on a route-specific basis is provided in the Final Environmental Impact Statement (see Appendix Q). Revisions to designations proposed in the Draft Plan/EIS in response to public comment and further BLM staff review are described on a route-specific basis. Decisions pertaining to designating routes as “open,” “limited,” and “closed” in the desert tortoise subregions are based on the identified purpose and need for the Proposed Plan, which includes providing for recovery of the desert tortoise and its habitat, as well as providing for a reasonable vehicle access network (see Sec. 1.3, Purpose, Need and Scope).

PC 311: The Final EIS should disclose decision criteria for closure of historic travel roads.

Response: During the route designation process, several of the routes identified on the maps used to develop the route network in the CDCA Plan could not be located on the ground today. Many of the routes referenced in this comment have been located, identified, and included in this inventory. These routes were identified by on-the-ground verification. No statistical information is available to give exact percentages on how many old routes as opposed to newer or more recent routes are being closed. Determining the specific age of routes is difficult and generally unknown except for those that lead to destinations (e.g., popular camping sites, mining sites, old town sites). Historical trails and routes (See Chapter 3, Section 3.8.5 Historical Trail Touring and Table 3-3) located within the planning area are described further as well as how they have been impacted by recent closures.

PC 314: The BLM should focus its efforts on educating the public regarding responsible road use instead of closing roads.

PC 322: The BLM should educate the public on appropriate land use near waterways instead of limiting access.

Response: BLM will be doing extensive education and outreach in addition to the closures to protect sensitive resources. We will seek funding from grant programs, including the California OHV Grant program, to provide interpretive outreach through written materials, kiosks, and web pages, to protect the desert tortoise and other resources. Briefings on the need and methods to protect desert tortoise and its habitat will continue to be presented to participants at organized events. The Bureau will continue to emphasize and incorporate Tread Lightly and Leave No Trace principals in its programs. It is also anticipated that through monitoring efforts, BLM will have the ability to collect data to assist them in identifying alternative measures to protect the tortoise.

PC 316: The BLM should reconsider closing duplicate routes.

Response: No primary destinations or locations have been blocked by any of the route closures. BLM does not anticipate a reduction in motor vehicle use within the DWMA's. BLM expects OHV users to continue to enjoy the affected areas on the 681 miles of remaining open routes in the desert tortoise subregions. The significance of a route, which may appear as a duplicate of another, is under more scrutiny when it is located in critical tortoise habitat. If the Bureau used the rationale presented here, every route could probably be justified on a recreation aspect to remain open, which would not be consistent with 43 CFR 8342.1 criteria.

PC 317: In order to maintain public support and to ensure quality recreation opportunities, the BLM should allow primitive roads to remain open.

Response: The BLM recognizes that the closures will displace some OHV users who utilized these routes for recreational activities. However, BLM has made concerted efforts to minimize effects to motorized recreation. For every route proposed for closure, there are other routes remaining open to access sites or for vehicle touring. BLM still allows motorized recreation opportunities on 681 open routes in the desert tortoise subregions. The primitive experience can still be achieved from the remaining routes available for use (See Chapter 4, Section 4.9.5 analysis of impacts of the Proposed Plan).

PC 318: The BLM should consider road reclassification as an alternative to road obliteration.

Response: Under the Proposed Plan, the rehabilitation of routes designated "closed" constitutes one of several options to exclude access. Signing and barricading closed routes are identified as other options to accomplish the task (see Sec. 2.10, Motorized-Vehicle Access-Routes of Travel Designations). However, the Proposed Plan does not identify mechanisms on a route-by-route basis for implementing route closures. Site- and circumstance-specific considerations will determine the most appropriate and effective way to exclude access for individual routes. Where rehabilitation of routes is determined necessary, project-specific analysis will be completed prior to implementation.

The comment suggests that a more viable alternative to route obliteration is reclassification of routes, as either restricted-width or unrestricted-width non-motorized trails, but fails to explain how such classifications would be applicable to the NEMO Plan, and, if a network of motorized or non-motorized trails were set up, how such a network would be enforced. All motorized routes in the NEMO planning area are considered as “restricted-width trails.” Except for the purposes of stopping, parking, and vehicle camping for which specific distances from the centerline of a route are identified under the Proposed Plan (see Sec. 2.10), travel beyond the edge of the roadbed is considered as cross-country travel. Cross-country vehicle travel is not permitted in the California Desert Conservation Area (CDCA) except in off-highway vehicle recreation areas specifically designated for such use. The term “unrestricted-width trail” has no meaning in the context of motorized-vehicle access in the CDCA. The individual who submitted the comment did not provide a definition of this term. Currently non-motorized users are not restricted to trails. A hiker may use routes, existing trails within wilderness, designated hiking trails, game trails, or may wander cross-country.

PC 319: The Proposed Plan should establish a process to rescind travel route closures.

PC 320: The BLM should reopen roads when science proves they are not detrimental to desert tortoise.

Response: Route designations of “closed” and “limited” apply to the casual user. Access on these routes can be obtained under permit or by authorized use (e.g., law enforcement, search and rescue, mining, Department of Game & Fish). Access by foot or horseback would still be allowed. One of the recommendations in the Tortoise Recovery Plan was to close one-quarter mile of a route that end at a water source to protect sensitive species. Not all routes that terminate at a water source were proposed for closure. Only in those cases where it was deemed necessary was the closure proposed. All route designation decisions are plan amendments to the CDCA Plan. Thus, subsequent plan amendments may modify them, as appropriate to changing circumstances or information.

PC 323: The BLM should consider access needs for fire fighting when making road closure decisions.

Response: In emergency situations, access needs for fire fighting or other emergency services take precedence over route designations. That said, less than 12% of routes on public lands have been proposed for closure within the 2 desert tortoise subregions. This is not anticipated to result in changes to the access capabilities for emergency services in the area. In future route designations access for emergency services will be considerations, particularly where substantial wilderness areas exist and motorized access to and through these areas is limited.

PC 324: The BLM should recognize that using the Proposed Plan to close roads and trails is not legal.

PC 338: The BLM should disclose all information relevant to route designation criteria.

Response: Appendix Q describes the route inventory and designation process conducted by the BLM for the Proposed Plan. An attempt was made to complete an on-the-ground inventory of 100% of the routes within the planning area. In 1993, the goal was to drive every route in the planning area and record their locations. However, between 1993 and 1998, data in old databases were lost and all routes had not been driven. Routes, which had been inventoried, were provided on maps and distributed to the public in 1998 and 1999. Comments were solicited regarding the completeness and accuracy of the route inventory. Few route-specific comments were received by the BLM prior to release of the NEMO Plan/DEIS.

Executive Orders 11644 (87 F.R. 2877) and 11989 (42 F.R. 26959) established route designation criteria, which in turn, were codified as regulations at 43 CFR §8342.1 (These are reproduced in Chapter 2, Sec. 2.10, Motor Vehicle Access-Routes of Travel Designations). These regulations provide general guidance for the route designation process but do not (and could not) identify specific actions to be taken in response to area-specific circumstances such as those occurring within the planning area. Hence, in furtherance of the regulatory route designation criteria and the purpose and need of the plan (Chapter 1, Section 1.3), various parameters were developed through the NEMO Plan including those that provide for recovery of the desert tortoise, protection of other special status species and their habitats, and ensure that public lands health standards are met

PC 329: The Proposed Plan should eliminate the existing route network approach.

Response: This change is provided for in alternatives for the routes of travel designation process (See Chapter 2, Section 2.10).

PC 330: The BLM should consider extending Highway 178 from Trona Pinnacles to the bottom of Death Valley.

Response: National Park Service lands in Death Valley National Park (DVNP) are outside the scope of the NEMO Plan. It appears that DVNP lands would be affected by any proposal to extend State Highway 178 to the Trona Pinnacles. Caltrans and DVNP would be the two points of contact for such a proposal.

PC 333: The BLM should justify the proposal in Draft EIS Alternative 2 to keep 8,000 miles of road open.

Response: This comment prompted the affirmation of a prominent typographical error in the document, a missed period. The number of miles is reported in the DWMAs on page XV was in error. The total mileage inside the desert tortoise subregions, is 850 miles, including additional inventory data since the DEIS. However the percentages portrayed in error are similar for the corrected mileage numbers, except they did not include approximately 50 additional miles that were the result of additional information (e.g., inventory information, mapping and GIS errors, single-counting of duplicate routes, etc). FEIS Proposed Plan network also includes modifications based on public comments on the DEIS route network. The number of open miles is 681 (81%). The number of limited miles is 69 (8%) and the mileage for closed routes is 94 (11%). There are also approximately 72 miles of unclassified routes within the desert tortoise subregions (e.g., private lands, railroad rights-of-way).

PC 334: The BLM should consider closing more roads in Desert Wildlife Management Areas than proposed in the Draft EIS.

Response: All forms of recreation in the California desert usually require some use of motorized vehicles. At a minimum, a vehicle is necessary to access sites for non-motorized activities and opportunities for non-motorized recreation are not substantially constrained by existing access limitations. Restrictions on motorized-vehicle travel and the potential for future restrictions is increasing, including limitations on where one can park and stop their vehicle, as well as where one can camp with it. Opportunities for off-highway vehicle racing have also become increasingly constrained upon listing of the desert tortoise as a threatened species. Permits for such events as the Barstow-to-Vegas motorcycle race and the Parker 400 event have not been issued in California for more than 10 years. In general, activities involving the use of motorized-vehicles have become more and more limited over the last quarter century, as more and more people have become interested in vehicle touring and conflicts have increased.

Enactment of the California Desert Protection Act of 1994 further changed the picture for motorized-vehicle access with designation of 69 wilderness areas, 1.2 million acres of which are located in the NEMO Planning Area. It should be recognized that these areas were recognized as wilderness in part because their existing route network was sparse—one piece of evidence that these areas were essentially “untrammeled by man”. The motorized access that did exist within them, provided a window to some of the most breathtaking country within the CDCA. Motorized Corridors have been provided through some of these areas, but the recreationist can no longer get off the beaten track in a vehicle. As required by statute, casual use of motorized vehicles in wilderness is now prohibited.

This history does provide a relevant context for the current route designation process (See Chapter 4. Cumulative Effects Section 4.12). The intent of the Proposed Plan, based on recent changes and anticipated future changes to motor-vehicle access and to development potential of nearby areas (Las Vegas Valley), was to apply 43 CFR 8342.1 criteria to the extent needed to accomplish the purpose and need of the plan(Chapter 1, Section 1.3).

PC 337: The BLM should analyze habitat impacts prior to closing roads.

Response: Analyses of impacts on the human environment from the Proposed Plan and each alternative, including the effects of designating routes of travel as “open,” “limited,” and “closed,” are presented in Chapter 4. “Human environment” is interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment (40 CFR §1508.14). Analyses have been strengthened for the Final Environmental Impact Statement.

Various alternative strategies to accommodate motorized-vehicle recreation while providing for recovery of the desert tortoise and protecting special status species and their habitats are described in Chapter 2 (see Sec. 2.10.1, 2.10.2, 2.10.3, 2.10.4, and 2.10.5, Motorized-Vehicle Access-Routes of Travel Designations).

One alternative suggested by the public in lieu of closing routes is to increase signage thereby alerting off-highway vehicle users to the sensitive resources adjacent to routes on which they are traveling. This alternative also fails in responding to the CDCA Plan’s route designation process. Instead, it is another mechanism to enhance compliance with route designation decisions, and is already addressed in each of the alternatives to implement these decisions (see Sec. 2.10 and Appendix Q regarding the installation of information kiosks that address resource protection and other matters).

Given the extent of motorized-vehicle access afforded under the Proposed Plan (see Sec. 2.10.5) and the determination that impacts to motorized recreation are not substantial (see Sec. 4.9.5, Recreation Management), measures to mitigate such impacts, including actions that might limit the magnitude of the action (e.g., seasonal or alternating closures) or compensate for the impact by replacing or providing substitute resources (e.g., development of new routes corresponding to the extent of routes designated “closed”), are not necessary. The Proposed Plan does not substantially affect opportunities for motorized recreation. Other route designation subregions in and adjacent to the planning area can be expected to provide additional opportunities to specific groups that are somewhat affected, because, to date, route designation has only been completed within the desert tortoise subregions, and because the NEMO planning area offers less extensive OHV Open Area opportunities than adjacent planning areas.

Route Designation

PC 339: The BLM should retain interim route closures until a detailed route designation process is in place.

Response: No routes were temporarily closed in any of the proposed DWMAs as a result of the Center for Biological Diversity Lawsuit. Therefore, this comment does not apply in the NEMO planning area. Whether a route is used once a year or extensively does not justify whether or not it should be closed, it is just an element used in the decision making process. Several diverse user groups provided input to routes during the route designation process wherein each route was looked at and criteria applied. Nineteen percent of the routes in the desert tortoise subregions are proposed to be restricted to casual users either with a designation of “closed” or “limited, an increase of over thirteen percent from the No Action Alternative.

PC 340: The Final EIS should clarify the description of alternatives for designating routes.

Response: The description of alternatives is further clarified in Sections 2.10.1 through 2.10.4 of the Final EIS. See also Chapter 8, Figures 4a through 4h and the fold-out maps of the Proposed Plan at the back of Volume 1.

PC 341: To help in making route closure decisions, the BLM should assign “beneficial use” designations to travel routes proposed for retention.

Response: The comment suggests that “beneficial use” designations (e.g., through-travel, hunting access, access to a specific area or natural resource, etc.) assigned to each route would be useful in determining whether additional existing routes are redundant and could be closed. Route designations are justified in Appendix Q: Route Attribute Table. All designations in the desert tortoise subregions were evaluated and a rationale provided with the open, closed, or limited designation. Recreational purposes (e.g., vehicle touring, rock hounding, hunting, hiking, camping) and/or access to (e.g., private property, wilderness, National Park Service, Nevada) of routes were analyzed along with the criteria referenced in section 2.10 Motor Vehicle Access.

This section also defines a redundant route as one whose purpose is apparently the same or very similar to that of another route, inclusive of providing the same or very similar recreation opportunities or experiences. Further, it is stated that identifying redundant routes requires that judgments be made relative to the uses and purposes of certain routes. A route may be considered redundant based on proximity to another route despite any knowledge about its use and purpose. Whether it is recommended for closure as a redundant route may then be dependent on its apparent use and purpose, its contribution to maintenance of a viable route network, its proximity to open navigable washes, and/or the potential for management of the route as “closed.”

Since judgment is usually required in ascertaining a route's redundancy (e.g., determining the recreational value of one route relative to a near-by route is a process subject to a host of variables that have differing degrees of importance to different individuals), the presence or absence of resource values that would be adversely affected should the route remain available for motorized-vehicle use is an important consideration in making a recommendation about its designation as "open" or "closed." In the final decision-making process, the designation of any route as "open" must be in accordance with the regulatory route designation criteria at 43 CFR §8342.1 (These criteria are reproduced in Sec. 2.10, Motorized-Vehicle Access-Routes of Travel Designations). In furtherance of these criteria, the closure of redundant routes shall be strongly considered to protect and enhance habitat for special status species. Upon application of the regulatory and NEMO Plan-specific criteria and a determination that the criteria have been met in designating a particular route "open" that some individuals might consider as redundant, then justification for recommending its closure simply because of its perceived redundancy may be inappropriate. The public review process in this regard, therefore, assists the agency in determining if its assertions of redundancy are accurate. See also Response to PC # 105 for tips on participating in this process as route designation continues within the NEMO planning area.

PC 342: The BLM should close non-designated travel routes in the CDCA planning area.

Response: Non-designated routes are considered either a major, county maintained route that BLM does not consider in the route designation process or a route that is non-existent.

Both of these routes are discussed in the Appendix Q. Routes, which are no longer needed or provide access to a site (e.g., recreation site, water source, cultural site, mining, range improvement) will be rehabilitated.

PC 343: The BLM should designate specific routes for specific activities.

Response: As for making trails specific to certain activities, public use is diverse and BLM remains sensitive to its multiple-use requirements. Visually evident trails, with their associated surface disturbances, can be caused by recreation activities other than the use of motor vehicles, and, in some situations, the visual evidence can be comparable. Under some circumstances, non-motorized use can rival motorized use in its effects on resources (e.g., disturbance of wildlife at particularly sensitive times).

PC 344: The Final EIS criteria for route designation should include national, esthetic, and scenic values.

PC 349: The FEIS should clarify criteria for determining roadway impacts to viewsheds.

Response: BLM remains bound to the route designation criteria in its regulations at 43 CFR 8342.1. Among those criteria are the mandates to base all route designations on the protection of the resources of the public lands, locate trails to minimize damage to resources of the public lands (e.g., soil, watershed, vegetation, and air) and prevent impairment of wilderness suitability. BLM is to locate no trails in officially designated wilderness areas or primitive areas. Under 43 CFR 8342.1(d), BLM is to locate trails in natural areas only if the authorized officer determines that OHV use there will not adversely affect the values (e.g., natural, esthetic, scenic) for which those areas were established.

PC 345: To comply with the California Desert Protection Act, the BLM should post the Greenwater Canyon as a dead end.

Response: Given the practicalities of perpetual maintenance on public information signs in extremely remote locations, BLM suggests that effective boundary marking and access management be included as a discussion item in a future NPS/BLM coordination meeting.

PC 346: The BLM should restrict the construction and expansion of utility corridors.

Response: No new utility corridors are proposed in the NEMO planning area. Any new proposed utility corridors would require a plan amendment and public participation.

PC 347: The BLM should provide information regarding locations of proposed fee demonstration projects.

Response: The Recreation Fee Demonstration Program was incorporated in the California Desert Conservation Area in 1998. The need arose in the Fiscal Year 1996 Interior Appropriations Bill (under the Omnibus Consolidated Rescission and Appropriation Act of 1996, section 315 of Public Law 104-134) in which Congress charged agencies to be more aggressive in their fee collection. Collection of fees is one method to assist in meeting growing operations and maintenance needs for programs. The California Desert will continue to evaluate sites for the possibility of future fee collection. BLM is collecting these fees because of funding shortfalls for routine maintenance, additional Law Enforcement, and resource protection at popular sites.

PC 348: The Final EIS should contain an evaluation of impacts from cross-country hikers.

Response: Chapter 4 has been strengthened and provides additional information and analysis on impacts. For example, see Section 4.9.1, impacts to vegetation, soils and related resources and 4.2.1, in the same sections.

PC 350: The BLM should consider the needs of disabled visitors.

Response: The comment relates the availability of motorized-vehicle access to opportunities for disabled visitors. It suggests that handicapped, elderly, or physically impaired individuals can only recreate on motorized roads and trails. The BLM recognizes that many of the California desert's most attractive resources can only be enjoyed by use of vehicle access routes (see Sec. 3.8 Recreation Resources and Activities). It stands to reason, therefore, that substantial limitations on motorized-vehicle access would concomitantly affect opportunities for all visitors to experience and enjoy the myriad of resource values contained within the California desert, and may especially impact those with no other options such as travel on foot, horseback, or bicycle due to physical limitations or impairments.

As required by the regulations at 43 CFR §8342.1, the designation of areas and trails (routes) as either “open,” “limited,” or “closed” shall be based on the protection of the resources of the public lands, the promotion of the safety of all the users of the public lands, and the minimization of conflicts among various uses of the public lands, and in accordance with specific criteria (see Sec. 2.10, Motorized-Vehicle Access/Routes of Travel Designations, for a description of the criteria). Under the Proposed Plan, routes of travel are so designated in accordance with the regulations. The analysis in Chapter 4 addressing limitations on motorized-vehicle access, hence recreation, concludes that such limitations under the Proposed Plan and other alternatives are not substantial (see Section 4.9, Impacts to Recreation and Impacts to Vehicle Access for each alternative). Effects that have occurred are regional in nature, and the result of anticipated and unanticipated cumulative effects (Section 4.12) Ample opportunities remain for the public to experience and enjoy the resources available within the planning area, including within the desert tortoise subregions.

PC 351: The BLM should restrict use of firearms within Desert Wildlife Management Areas.

Response: The Desert Tortoise Recovery Plan recommended that discharge of firearms, except for hunting of big game or upland game birds from September through February, should be prohibited in DWMA's. This was presumably based on a study (Berry 1986) that showed a high incidence of gunshot deaths on some permanent study plots. However, for the two permanent study plots in the NEMO Planning Area, the incidence was very low. Specifically, on the Ivanpah Valley plot, adjacent to the BLM's proposed Ivanpah Valley DWMA, 1 of 31 (3.1%) were shot. On the Goffs Plot, adjacent to BLM's proposed Piute-Fenner DWMA, 0 of 34 (0%) were shot. These low numbers together do not indicate a need to restrict further shooting at this time. Monitoring of sites will continue. BLM's expectations are that use of firearms will continue not to be problematic in the planning area, unless such use increases dramatically.

PC 353: The BLM should allow camping and campfires in the desert.

Response: All alternatives provide for camping in the desert, including in DWMA's. A range of alternatives is provided, which include limitations on groups. Campfires are permitted or prohibited based on local fire conditions at any particular time. This is determined and posted by each County fire warden.

PC 355: The BLM should restrict camping to designated areas.

Response: Large, well-established campgrounds are available in the Mojave National Preserve and in Death Valley National Park, where visitor use is relatively high. On BLM lands in the NEMO Planning Area camping intensity is generally low. Rules for camping on BLM lands are that camping is to occur in previously disturbed sites (see PC#78). Many visitors to desert areas are seeking solitude and quiet. This is offered under the current disseminated camping rules, to occur within 100 or 300 feet of open routes if motor-vehicle based, depending on the location. In the NEMO Planning Area, a proliferation of camping sites has not occurred.

PC 357: The BLM should consider opening Wilderness Study Areas for visitors with disabilities.

Response: The route designation process for wilderness study areas in this plan amendment will be similar to that for designation on other public lands. However, the regulations for route designation and the statutory and policy requirements for wilderness study area management provide that such designations will not impair wilderness suitability. The opening of new routes would impair and the continued use of some existing routes might impair the wilderness suitability of the wilderness study areas. As such, we do not anticipate an expansion of opportunities for motorized use in the wilderness study areas.

PC 358: The Proposed Plan should establish guidelines for access to private inholdings.

Response: As you note, there are statutory provisions at section 708 of the California Desert Protection Act of 1994 [CDPA] for access across public land in wilderness areas and federal lands in National Conservation Units to non-federal inholdings. The BLM has already established guidance for such access across BLM wilderness in regulation at 43 CFR 6300 and policy. Considerations of consistency of that guidance with National Park Service guidance are beyond the scope of this plan.

Guidance for access to cross non-wilderness public land to inholdings is provided at 43 CFR 2000. In essence, such access under conditions of casual use does not require a permit. If such use does not constitute casual use [e.g., maintenance of a route], then a right-of-way is required.

PC 359: To facilitate an experience of exploration, the BLM should avoid the overuse of road signs.

Response: BLM will install signs on closed routes as well as routes that are open to encourage use on open routes when appropriate. Additional, signs with positive messages to stay on open routes will be installed in high use areas and near wilderness boundary routes. To avoid or reduce sign proliferation, kiosks or wayside exhibits will be strategically placed where the public is primarily accessing both open and closed areas depicting open and closed routes/washes and protective measures for sensitive resources. Brochures and maps will be developed for distribution depicting the route designation changes. The public can also obtain information regarding the route designation changes on our web site at www.ca.blm.gov.

General Human Environment, Utilities, Recreation, and Travel

Natural Resource Commodities

PC 360: The BLM should not use NEMO to facilitate or support Section 10 permit applications.

Response: The proposed plan is not intended to support a habitat conservation plan covering private lands, as provided for in Section 10A of the Endangered Species Act. A habitat conservation plan is being prepared for adjacent areas in the West Mojave, and one is currently in place for the nearby Las Vegas Valley. San Bernardino County and Inyo County did not express interest in a habitat conservation plan for the NEMO Planning Area at the outset of the planning effort and again when the biological recommendations were being developed with FWS and CDFG (1998). See also the response to comment PC#133.

Grazing Management

PC 361: The BLM should analyze sustainability of desert lands for livestock grazing.

Response: Grazing allotments provide opportunities to use perennial and/or ephemeral types of forage. Lessees of allotments must meet the terms and conditions for grazing use covering period of use, areas of use, amount of grazing use, adherence to standards, type of livestock, maintenance and construction of facilities, and miscellaneous prohibitions. Provided these conditions are met grazing use can continue. In essence, grazing use has proven to be suitable if the lessee can continue to operate under terms and conditions to protect the forage resource and the environment.

The forage allocation was based in part on historical grazing use, but primarily upon vegetative inventories. The allotment produces a specific amount of forage during an average year from perennial grasses and shrubs. That prescribed forage is the permitted use level. Ephemeral forage is allocated whenever sufficient forage production occurs. However, some years do not produce average amounts of perennial forage, and if forage is insufficient cattle are moved to areas in the allotment where forage consumption is lower or must be removed from the allotment altogether. Once cattle are removed from the allotment they must be feed on private lands, sent to private pasture, or sold and others purchased later when the dry period passes. These activities produce and consume financial capital that can be difficult for the lessee to recoup with a series of dry years, and as consequence, some operations may proceed at lower level of grazing use until finances and adequate forage permit increased use.

PC 362: The Final EIS should address the purpose and need for limiting grazing operations.

Response: Under Chapter 1, Section 1.3, Purpose, Need, and Scope, the needs for action or change in management are detailed. The issues affecting the desert tortoise are discussed later in the same Chapter in the Major Issues Section for T&E Species Conservation and Protection: Desert Tortoise. Dietary overlap between cattle and desert tortoise, and environmental stressors of the desert tortoise are discussed in this section. Later in the same section, a number of questions are raised that need to be addressed in Chapter 2 through management actions displayed in the alternatives. This approach not only prescribed alternatives/actions for cattle grazing in tortoise habitat, but wild burro management, vehicle route designation, and others.

PC 363: The BLM should require that grazing research be based on science.

Response: All future research efforts to examine impacts of grazing activities on listed species would be based on sound scientific protocols and established methods. Prior to development of field data collection phase, aspects of the investigation would undergo a literature review for similar efforts and techniques. Once the effort has been quantified, BLM would explore different approaches to accomplish the research in the time specified. There are many ways in which to complete this research, but the most obvious ones for the BLM would be to contract, complete the effort with current staff, work with staff from one or more local universities or a combination of two or more options.

PC 364: The Proposed Plan should establish a trailing guideline to facilitate domestic livestock grazing decisions.

Response: The preferred method would be to implement the soils and native species standards through field assessments. If excessive trailing were affecting conditions for soils or native species on a portion of the allotment then prescribed actions would be detailed to alter those practices. Such practices or techniques that could become a term and condition of continued grazing use may include a temporary or permanent reduction in grazing use, adding drift fence, moving a portion of the herd into another part of the allotment, and/or adding a water source. The two standards and their indicators are found in chapter 2, but are also listed below. In addition, guidelines for grazing management 10, 11, 13, and others may apply to this situation.

Soils: Soils exhibit infiltration and permeability rates that are appropriate to soil type, climate, geology, landform, and past uses. Adequate infiltration and permeability of soils allow accumulation of soil moisture necessary for optimal plant growth and vigor, and provide a stable watershed. As indicated by:

- Canopy and ground cover are appropriate for the site
- There is diversity of plant species with a variety of root depths
- Litter and soil organic matter are present at suitable sites
- Microbiotic soil crusts are maintained and in place
- Evidence of wind or water erosion does not exceed natural rates for the site
- Soil permeability, nutrient cycling and water infiltration are appropriate for the soil type.

Native Species: Healthy, productive and diverse habitats for native species, including special status species (Federal T&E, federally proposed, Federal candidates, BLM- sensitive, or California State T&E, and unusual plant assemblages) are maintained in places of natural occurrence. As indicated by:

- Photosynthetic and ecological processes continue at levels suitable for the site, season, and precipitation regimes
- Plant vigor, nutrient cycle, and energy flow are maintaining desirable plants and ensuring reproduction and recruitment
- Plant communities are producing litter within acceptable limits
- Age class distribution of plants and animals are sufficient to overcome mortality fluctuations
- Distribution and cover of plant species and their habitats allow for reproduction and recovery from localized catastrophic events
- Alien and noxious plants and wildlife do not exceed acceptable levels
- Appropriate natural disturbances are evident
- Populations and their habitats are sufficiently distributed to prevent the need for listing special status species

PC 365 The Final EIS should incorporate the livestock grazing management plan prepared by Dr. Wayne Burkhart and Dave Thornton.

Response: The Proposed Plan establishes a grazing strategy for cattle use in DWMAs. Changes to the grazing strategy could be altered under provisions for research of grazing forage utilization and relevant variables. The BLM, FWS, and lessee(s) would develop a written research proposal and after agency review and approval the proposal would be implemented.

PC 366: The Proposed Plan should establish a guideline requiring grazing exclosures within allotments to facilitate comparisons of grazing intensity and management status.

Response: Establishment of permanent and temporary exclosures is an excellent method to compare grazed and ungrazed vegetation in stocked grazing allotments. Data can be collected for long-term vegetation trend studies as well as the customary comparison of forage utilization. Construction of the exclusion fence is a short-term problem that can easily be overcome, however, a poor rationale for positioning an exclosure on a specific site interferes with continuation of that exclosure and establishment of additional exclosures in the allotment. We have constructed numerous temporary and permanent exclosures in the CDCA and the BLM would continue to build exclosures. To establish a guideline to construct exclosures at every key area or every other key area would heavily tax existing resources and may not achieve the desired results. Perhaps a better solution would be to construct exclosures in specific areas to obtain monitoring results when standards are not being met.

PC 367: The Proposed Plan should establish a guideline requiring a comprehensive information database for vegetative species within grazing allotments.

Response: Vegetation, soils, and other resources have been mapped in the CDCA several times under different techniques and these efforts have provided general maps without sufficient detail for management utility. Maps resulting from these efforts are included in allotment management plans where they are effective. However, the BLM-approved method to inventory soil and vegetation has not been conducted in the CDCA due in large part to the cost of such an endeavor. Soil and vegetation inventory have been conducted in limited areas of the CDCA and results from these efforts would be utilized when maps overlay grazing allotments.

PC 368: The BLM should implement various grazing restrictions listed in settlement agreements negotiated under the recent lawsuit for the NEMO planning area.

Response: Grazing restrictions are detailed in settlement agreements based on negotiations between BLM and the Center for Biological Diversity (CBD) originating from a lawsuit brought against the BLM for not consulting with the FWS on management actions affecting listed species in the CDCA Plan. The grazing restrictions listed in the settlement agreements are interim actions until implementation of the Proposed Plan. The NEMO planning process and direction were well underway before negotiations with the CBD began.

PC 369: The BLM should forbid livestock grazing during summer in the CDCA planning area.

Response: High temperatures do affect movement of livestock because animals actively seek shade where it is available. Livestock producers select cattle for their ability to withstand and thrive in high temperatures. Many riparian areas with trees and tall brush are fenced to protect water sources and attendant vegetation. When riparian areas are impacted by cattle use, steps are to be taken to remove cattle from the affected resources.

PC 371: The BLM should eliminate ephemeral livestock grazing in the CDCA planning area.

Response: The Proposed Plan would remove the ephemeral forage allocation for those allotments with ephemeral/perennial classifications that are within DWMA's, and annual grazing use of perennial forage between 3/15 and 6/15 is contingent upon achieving 230 pounds by air-dry weight per acre. Those allotments outside of DWMA's but within desert tortoise habitat would be managed under existing biological opinions. The terms and conditions of the BOs allow grazing use of ephemeral forage to occur based upon prescribed production of annual grasses and forbs and within a prescribed period.

Sheep grazing is not authorized in the planning area. Approximately, 1,566 cattle can graze on 17 allotments, but some of the allotments have not been grazed for years and several other allotments are authorizing grazing use at less than potential for the allotment based on financial or management concerns. On an average year about 1,300 cattle graze in the planning area. In the planning area, the authorization of ephemeral forage for cattle use has not occurred for more than seven years, and in the ephemeral Piute Valley Allotment grazing use of ephemeral forage has not occurred for almost ten years. Those allotments within desert tortoise habitat tend to consistently produce more ephemeral plants than those allotments outside of desert tortoise habitat.

PC 372: The BLM should prohibit supplemental feeding of livestock.

Response: As described in grazing regulations under 43 Code of Federal Regulations Subpart 4100.0-5, "Supplemental feed means a feed which supplements the forage available from the public lands and is provided to improve livestock nutrition or rangeland management." That means a manager may authorize the placement of supplements such as salt and protein in various areas of the allotment to improve livestock nutrition and/or assist in rangeland management (e.g., improve cattle distribution). However, the feeding large quantities of alfalfa hay or cubes because forage is lacking on public land is not permissible and it is consider a prohibited act under 43 CFR 4140.1(a)(3).

PC 373: The BLM should base its livestock grazing requirements on those provided by the Sierra Club.

Response: There is no new information provided with this comment and the comment is not substantive.

PC 374: The BLM should allow livestock grazing to continue in the CDCA planning area.

Response: The Proposed Plan does provide for continued grazing use in those allotments that are not in conflict with measures set forth for desert tortoise recovery. In those allotments where recovery of desert tortoise is the priority, continued use of rangelands is tied to annual ephemeral forage production to meet the needs of the desert tortoise. The Proposed Plan provides the lessee an opportunity to continue the grazing operation or to voluntarily relinquish the grazing lease as mandated by operational, logistical, and financial needs.

PC 378: The BLM should clarify livestock grazing allotment ownership information found in Appendix M of the Draft EIS.

Response: Appendix M of the *Draft California Desert Conservation Area Plan Amendments for the Northern and Eastern Mojave Planning Area* details changes to the CDCA Plan from enactment of the California Desert Protection Act of 1994 (CDPA). This appendix displays the shift from BLM administration to NPS administration upon enactment of CDPA. Prior to enactment of CDPA all public lands and the activities occurring upon them were administered by the BLM. After enactment of CDPA, all federal lands and the activities upon them were placed under NPS administration in the Mojave National Preserve or expanded area of Death Valley National Park. Cattle use is one of those activities and grazing is confined to geographical units called allotments. The newly formed areas of the Mojave National Preserve and Death Valley National Park crossed grazing allotment boundaries. In selected allotments a portion of the allotment is now within the new NPS units and the remaining portion continues under BLM administration. However, Colton Hills, Gold Valley, and Round Valley Allotments are totally within the boundary of the Mojave National Preserve and they are no longer administered by the BLM.

In addition to changes in federal land management listed in Appendix M, please refer to Table 2-5 on page 2-27 in Chapter 2 of the DEIS. Under Table 2-5, acreage, AUMs, rangeland type, and grazing direction are presented in columns under the Alternative 1 (No Action). Data is listed for 20 allotments based upon passage of the CDPA, current forage allocation is listed in AUMs and size is listed in acres. This information is pertinent because of NPS goals, as outlined in their General Management Plans for Mojave National Preserve and Death Valley National Park (May, 2002), to eliminate grazing on NPS-administered lands, through third-part buyout.

PC 379: The Final EIS should clarify issues on livestock grazing allotments raised in Chapter 3 of the Draft EIS.

Response: The requested clarification covers Kessler Springs, Hunter Mountain, Clark Mountain, and Crescent Peak Allotments. Most of the information is found in Chapter 2 or the appendices of the FEIS.

Under the Proposed Plan, the Kessler Springs Allotment and others would no longer be grazed after the lessee submits written request. Tortoise recovery would be the primary focus of these areas. For further elaboration and back ground information please see section and discussion for 2.2.3.4 Grazing Management pages 2-19 and 2-20, Table-Summary of Alternatives for Desert Tortoise Recovery and the intersection of row labeled "Livestock Grazing" and column labeled "Alt # 3 (Two Focal Populs.)" page 2-25, Table 2-5 on page 2-27, Cumulative Impacts-4.12.6 Cattle Grazing (and Allotments) 5th paragraph page 4-104, and Appendix M page M-2. Discrepancies between acres listed in the DEIS and the 1999 Decision Record for environmental assessment (CA-060-EA-8-05) and plan amendment are due to inaccuracies in the way acres were counted in the 1999 Plan Amendment. The acres listed in the DEIS utilized the most current information from our geographical information system and this acreage is considered more precise.

It is our understanding that the portion of Crescent Peak Allotment found on the Mojave National Preserve has been canceled by the NPS, however, that portion of the allotment found on BLM lands has not been canceled nor does the Proposed Plan support cancellation of the allotment. The Crescent Peak Allotment is outside of desert tortoise habitat and would continue to be managed under current regulations, and terms and conditions.

The Clark Mountain Allotment does contain Category I desert tortoise habitat. The allotment does not contain desert tortoise critical habitat. The area in the allotment with desert tortoises was not selected under the Proposed Plan for future management under the DWMA. Grazing use in tortoise habitat would be managed under terms and conditions listed Appendix E.

Only a portion of the Hunter Mountain Allotment is located in the Malpais Mesa Wilderness. No new range improvement projects are proposed to be located in wilderness, and there are no proposed increases in grazing use in wilderness.

PC 380: The BLM should evaluate the Last Chance grazing allotment and determine the animal unit month through an Allotment Management Plan.

Response: Prior to expansion and designation of the Death Valley National Park, the Last Chance Allotment forage allocation (AUMs) and area were listed in the CDCA Plan, 1980 at 3,055 AUMs and 101,324 acres. After enactment of CDPA, that portion of the allotment on BLM lands has been reduced to 1,639 AUMs and 35,532 acres. Therefore, future cattle grazing set forth in the Proposed Plan would continue with 1,639 AUMs for the Last Chance Allotment until modified through land use plan amendment.

Cattle have not grazed on the Last Chance Allotment since 1998. BLM-Nevada has administrative concerns with cattle grazing in the Last Chance Allotment. Until this situation is resolved in Nevada cattle grazing would not occur on the California portion of the allotment.

Mineral Resources

PC 381: The Final EIS should provide an expanded analysis of potential future impacts to communities and mineral resource availability from proposed management actions.

Response: The impacts analysis (Chapter 4) has been expanded to better address effects on all resources, including mining. BLM has focused the analysis and text on impacts that would be negative. If mineral resources will not be adversely affected, it can be presumed that local economies will not be either. Regarding the existing situation (Alternative 1), for many of the issues there are associated mitigation and costs; however, these are imposed by laws and regulations independent of the subject planning effort.

PC 382: The Final EIS should provide an explanation of the relationship between mining codes and laws and the potential impact to future mineral resource availability from the proposed plan.

Response: Appendix K has been modified to include a statement on the State's Surface Management and Reclamation Act (SMARA) and the requirements of Public Resources Code Sections 2711 and 2712.

PC 385: The BLM should reference the California Division of Mines and Geology's Special and Open File Reports when exploring impacts on mineral resource availability.

Response: The EIS text has been modified to include a reference to the literature and maps produced by the California Division of Mines and Geology. The individual reports are also listed in the "Literature Cited" section.

PC 386: The Final EIS should state that mining operations will be allowed to continue in the CDCA Planning Area.

Response: The reader is referred to the declaration of policy found in the Federal Land Policy and Management Act (FLPMA) of 1976 (mentioned in Appendix K). Section 102 (12) states that, "public lands be managed in a manner which recognizes the Nation's need for domestic lands including implementation of the Mining and Minerals Policy Act of 1970 (84 Stat. 1876, 30 U.S.C. 21a) as it pertains to the public lands;" The latter policy and the National Materials and Minerals Policy, Research and Development Act of 1980 are summarized in Appendix K as well as the 1872 Mining Law.

Regarding BLM policy toward allowing existing mining operations to continue and avoiding withdrawals, we don't anticipate that any existing operations would be curtailed or shut down. Regarding potential operations in the future, we are looking at a number of alternatives, including withdrawals and a no-surface-occupancy stipulation to meet our mandate for the management and recovery of threatened and endangered species. These tools include the surface management regulations under 43 CFR 3809, which provide the BLM with authority to deny a plan of operations if it would cause unnecessary and undue degradation. Likewise, an existing operation could be shut down if it was found to be in noncompliance. BLM will be able to offer a future miner with a better picture of his future options in the Amargosa and Carson Slough areas when our resource information base, including specific species locations and life cycle data, is more complete for the species BLM is conserving in these areas.

PC 387: The BLM should allow motorized dry washers/mining activities on lands where vehicle recreation is allowed within desert areas.

Response: Although present rule making states that casual use “generally” includes, among other things, non-motorized sluicing, there is some flexibility built into the definition of casual use in 43 CFR 3809.5. Those wishing to use motorized dry washers on public lands should check with the local Field Manager to see if the proposed activity qualifies as “negligible disturbance” and can be accommodated as casual use. The answer may depend on the number of individuals operating within an area and their history of confining vehicular use to existing trails and backfilling and reclaiming as they progress, as well as the general sensitivity of the area.

PC 390: The BLM should consider mineral values in relation to other resource values to ensure resource protection.

Response: For the foreseeable future there are no indications of substantial development of minerals resources. Prior to any major (over 100 acres) development an environmental impact statement would be required, with review of all resources values and public involvement. Other projects would be considered consistent with CDCA Plan requirements for ACECs, the DWMA requirements, and NEPA.

Social and Economic Resources

PC 393: The BLM should comply with the definition of the Small Business Act relative to mining claims and not create their own unpublished definition.

Response: BLM did not consider that a mining claim constitutes a small business entity because the Small Business Act requires production.

The NEMO planning effort is independent of and cannot change the proposed and final rulemaking for the surface management regulations in the Federal Register.

BLM has indicated through its inventory and assessment process where possible development would occur. It is anticipated that the NEMO plan will have a minimal impact on these mineral resources, small business entities or local and regional mineral needs. Only minor impacts would occur where there are changes in multiple-use-class changes from Moderate to Limited, which would change the requirement from a notice to a plan of operations in some cases. This would equate to a 15-day processing period rather than 30 days for a plan involving sampling less than 1,000 tons. For larger operations, there would no difference because a plan of operations would be required regardless of multiple-use class. There would be no difference in bonding requirements because both plans and notices require a financial assurance by regulation. The reader is referred to the motor-vehicle-access issue in Chapter 4 where varying alternatives will have some bearing on authorization (plan or notice), based on variations in MUC. Again, the impact on mineral development is anticipated to be minor.

PC 394: The Final EIS should present an analysis of potential local economic impacts.

Response: Section 4.12.15 analyzed socioeconomic impacts and concluded that impacts were not consequential, in the context of the regional economy. The biggest effect is from grazing leases. San Bernardino County collects monies from taxing the lessee based on the possessory interest tax. Under the Proposed Plan, grazing use on Valley Wells, Valley View, Kessler Springs, and Jean Lake allotments would continue as in the past except during dry years when ephemeral forage is insufficient. In past dry years, the lessee has removed a portion of the cattle herd from the allotment, and those remaining animals sought higher elevation grazing areas with superior forage until rainfall and forage returned throughout the allotment. While the grazing lease is active, losses, if any, in tax revenue would not be noticeable. However, if the lessee relinquishes the grazing lease, all sources of revenue originating from possessory interest tax would cease.

PC 396: The Final EIS should include justification for the inclusion of the 1989 retail sales figures from the Barstow Chamber of Commerce.

Response: Thank you for your comment. The section has been edited in the final document.

PC 397: The Final EIS should analyze the social and economic impacts of route closures to motorized recreationists.

Response: The environmental consequences describing the effects of the Proposed Plan, addressing Motor Vehicle Access-Routes of Travel Designations has been strengthened to more fully describe the impacts to motorized recreationists (4.8 and 4.9) and in the Cumulative Impacts analysis (4.12.11, 4.12.13, and 4.12.15).

PC 398: The BLM should develop a plan to use OHV gas tax monies to support OHV recreation and motorized vehicle impact mitigation.

Response: The Off-Highway Motor Vehicle Recreation Act of 1988 (State of California) enables the allocation of grant funds for the purpose of establishing, maintaining, managing, and rehabilitating off-highway vehicle (OHV) recreation areas, trails, and facilities in California. Grants are available for acquisition, development, planning, operation, maintenance, and resource management. Funding must be used for areas or trails that were, will be, may be, or are currently dedicated for legal off-highway vehicle use. Funds for this program are derived from a biennial fee paid for the registration of off-highway vehicles, from a portion of fuel taxes paid by all vehicles used off-highway for recreation, and from fees collected and income from special events at State Vehicular Recreation Areas. All funds are deposited in the Off-Highway Vehicle Trust Fund administered by the Off-Highway Motor Vehicle Recreation Division of the California Department of Parks and Recreation.

On an annual basis, with involvement from OHV users and non-OHV users of the public lands, the BLM identifies projects to support OHV recreation and mitigate motorized-vehicle impacts. In most cases, such projects do not require an amendment to the applicable land use plan, except where changes in land use allocations require an amendment (e.g., designation of a new off-highway vehicle recreation area on public lands). Applications for funds to support such projects are then made through the Off-Highway Vehicle Grants Program ("green sticker" program). Upon approval of the funds, projects are undertaken.

PC 399: The BLM should reconsider the toll stations proposed on State Highway 190.

Response: The Proposed Plan is not considering such a proposal, and never has done so. This activity would occur within a CalTrans right-of-way, and would therefore be under the jurisdiction of the State Highways Department, if it is under consideration. It would need to be coordinated with Death Valley National Park. BLM would be a commenter on the application or environmental document as a potentially affected interest, just as the public would also wish to be a commenter on such a proposal. BLM has not been notified of such a proposal.

Cultural Resources and Tribal Concerns

PC 403: The Final EIS should include provisions that address the preservation of historical and cultural sites.

PC 404: The BLM should preserve sites of western heritage and cultural significance.

PC 418: The Final EIS should include information about the inventory and protection of Native American cultural sites.

Response: This Proposed Plan would not change the Cultural Resources Element of the CDCA Plan. BLM would continue to implement the CDCA cultural resources management strategy in accordance with the CDCA Plan, as implemented in the CDCA Programmatic Agreement (*Programmatic Memorandum of Agreement Among the Advisory Council on Historic Preservation, the Bureau of Land Management (DOI), and the California State Historic Preservation Officer Regarding the California Desert Conservation Area* (1980)) and the BLM National Programmatic Agreement (*Programmatic Agreement among the Bureau of Land Management, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers Regarding the Manner in which the BLM will meet its Responsibilities under the National Historic Preservation Act* (1997)).

The National Programmatic Agreement is implemented in California by a Protocol Agreement between BLM California and the California SHPO (*State Protocol Agreement Between The California State Director of The Bureau of Land Management And The California State Historic Preservation Officer* (1998)). The National Programmatic Agreement and Protocol continue to reinforce all of the goals and actions necessary to achieve the cultural resources management proscriptions outlined in the CDCA Plan, but provide BLM more authority and responsibility in carrying out these responsibilities. The cultural resources management goals for the CDCA Plan include: (a) Recognition through ACEC and other special designations; (b) Preservation and Protection; (c) Monitoring; (d) Inventory; (e) Mitigation Plans; (f) Research, and (g) Review and Coordination. Proposed actions subsequent to the Proposed Plan would continue to be reviewed in accordance with Section 106 of NHPA, as implemented in the BLM Statewide Protocol and the 1980 CDCA Programmatic Agreement for cultural resources.

Specific to route designation decisions, the FEIS has been strengthened to address this issue. See Chapter 4.9.5 for Impacts to Cultural and Native American Values and strategies to address potential impacts..

PC 405: The Final EIS should analyze the impacts of route closures to the preservation of western culture.

PC 407: The BLM should evaluate motorized travel impacts in context to past disturbances and limit route closures accordingly.

PC 408: The Final EIS should evaluate utilizing multiple-use management principles to protect western culture and values.

PC 412: The BLM should close historic trails to motorized travel.

Response: BLM has been sensitive to develop very specific criteria for closing roads in the desert tortoise subregions. In areas with high mineral, utilities, and recreation values species and habitat conservation would generally not receive the same level of emphasis. The amount of roads and washes/wash systems proposed closed are small and have not significantly added to restrictions and closures affecting economic and social pursuits that are already in place. BLM has also been as sensitive as possible to retaining access where roads are known to provide access for specific purposes, consistent with the criteria identified for the desert tortoise subregions.

PC 406: The Proposed Plan should limit large group recreation activities in areas of potential archeological or other resource value.

Response: Large groups are required to obtain a special recreation permit for many activities in the CDCA (i.e., those uses where the criteria of 43 CFR 8372.1-1 are met). These include a) commercial use; b) competitive use; c) off-road vehicle events involving 50 or more vehicles, and d) special area use (includes ACECs). Permits may be waived for smaller groups if the activity is non-commercial, at the discretion of the Authorized Officer. These rules provide BLM the ability to protect areas of significant archaeological or other resource value.

PC 409: The BLM should maintain limited and strictly monitored motorized vehicle access to the Tonopah & Tidewater Railroad roadbed.

Response: The route designation for the Tonopah and Tidewater (T&T) Railroad grade and related cultural resources sites will be addressed in a subsequent route designation effort, which is currently scheduled to be completed by June, 2004. For some time, BLM has been aware of the call for motor vehicle use focused on the entire T&T grade by some users. With respect to motor vehicle travel on or parallel to the grade in its entirety, two segments are not available for motor vehicle use, and these two segments overlap. A substantial segment in the central Amargosa Canyon has been within the boundary of the Kingston Range Wilderness since 1994. Public use of vehicles in that vicinity is to remain outside the wilderness boundaries.

Prior to designation of the wilderness, the central Amargosa Canyon, which includes the wilderness, was closed to vehicle use in 1974. Again in the CDCA Plan in 1980 the area was closed to protect sensitive resources and still provide for visitor use of the canyon by foot trail. The closure was confirmed during route designation, which occurred at the time of the Amargosa Natural Area ACEC Plan (1983). Inside and outside the closed areas, as a product of erosion and washouts over the years, the T&T grade has become a long series of disconnected segments. As a result, vehicle travel on the grade, authorized or not, is a repeatedly interrupted experience. At a number of sites, vehicles on a raised segment of the grade, so as to continue onward, have no choice but to drive down the side of the segment, across a desert wash and, on the other side, drive up the side of the grade again. At those sites, for many years, this has been having predictable effects on the integrity of the grade, which receives no maintenance.

Regarding provision of vehicle use permits, this would be dependent on the outcome of the subsequent route designation process. The agency remains open to proposals similar in nature to other partnerships that have, for some time, resulted in cultural resources management processes consistent with BLM's scope of responsibility. The impacts to the T&T grade as a cultural resource potentially eligible for the National Register would be evaluated during route designation, and its integrity would be considered in that evaluation, as would other issues of pertinence. These issues and specific proposals would be addressed in the context of the specific route designations for the area of interest.

PC 410: The BLM should keep open access routes to Mesquite Spring.

Response: Routes will be designated for this area within the next three years. At the time of route designation for this area, this issue will be addressed. You are encouraged to:

- 1 Participate in the route designation process for the Amargosa watershed
- 2 Identify specific routes
- 3 Indicate why you think this is the action that should be taken

PC 413: The BLM should not implement the proposed Old Spanish Trail closure.

Response: The 3.8.5 passage in the DEIS reads: "Much of the Old Spanish Trail (Mormon Road) has been paved within the NEMO Planning Area. Tracks of the trail can still be seen at Emigrant Pass just off the Old Spanish Trail Highway as well as at Impassable Pass at the Alvord Mountains and points west. The route leading west from the highway is closed to motorized vehicle use to preserve what remains of the Old Spanish Trail."

The 'closure' of reference relates to the paving of the Old Spanish Trail in and west of Emigrant Pass. Rather than being administratively 'closed', the Trail, except for short segments, was rendered generally unusable by the paving of the Old Spanish Trail Highway between Tecopa, California and Pahrump, Nevada, which the Old Spanish Trail generally followed. Highway planning and design through Emigrant Pass used a centerline (for modern vehicle speeds and safety) very different from the centerline used by Old Spanish Trail wagons and livestock. As a result, in the rugged topography of the Pass, the highway alignment, crossing the Trail, has severed it at several points, in effect creating discrete trail segments. As a result, Trail segments are now under the highway pavement, negotiable for a short distance off the highway, or beyond the reach of motor vehicles, most OHVs included.

PC 414: The BLM should not consider the East Mojave Heritage Trail an historic trail.

Response: As a result of this comment and further investigation, a determination was made to remove the East Mojave Heritage Trail from Table 3. Although the trail is not Congressionally designated as an historic trail, the trail does offer passage by scenic landscapes and historical sites. Reference to its importance and relevance as a vehicle touring route in the planning area will remain as written in section 3.8.5, Historical Trail Touring.

PC 415: The BLM should consider reopening the East Mojave Heritage Trail.

Response: Portions of the East Mojave Heritage Trail (EMHT) were closed as a result of the California Desert Protection Act (CDPA) in 1994. The EMHT was not left open in its entirety because it was not an historic trail. Only Congress has the authority to make changes to wilderness designations. Proposing new wilderness areas or recommending changes in existing wilderness boundaries are beyond the scope of this Land Use Plan.

PC 416: The BLM should acknowledge that the Mojave Indian Tribe inhabited a much larger area than stated in the Draft EIS.

Response: The observations for Native American occupation of the California Desert region in prehistory are summarized from accepted ethnohistories, cultural resources documents, and general information available and are intended only to provide a general context. Differences in interpretation of territorial range for Native American peoples do not alter the analysis of impacts resulting from the Proposed Plan.

PC 417: The Proposed Plan should include protocols respecting tribal legal rights to cultural resource confidentiality.

Response: The proposed plan would not alter the agency's responsibilities for confidentiality regarding the release of sensitive information for archaeological or sacred sites.

PC 419: The Final EIS should emphasize avoidance and locating origins of cultural sites.

PC 422: The Proposed Plan should require archeological survey, with site-specific analysis and mitigation, prior to any ground disturbing mining activities.

Response: The FEIS has been clarified to emphasize that proposed actions resulting from implementation of this Proposed Plan would continue to be reviewed in accordance with Section 106 of NHPA, as implemented in the BLM Statewide Protocol and the 1980 CDCA Programmatic Agreement for cultural resources. When significant cultural resources would be adversely affected, the appropriate treatment would be determined in consultation with the SHPO and appropriate Tribal Governments.

PC 420: The BLM should maintain motorized access to cultural and Native American sites.

PC 421: The BLM should reconsider proposed route closures within 1/4 mile of sacred sites and cultural resources.

Response: Decisions regarding whether or not to close routes within ¼ mile of noteworthy sacred sites or cultural resources will be considered on a case-by-case basis. Those routes which were determined to remain open, that pass by or end at these cultural sites may provide some type of interpretation to assist in the education of the passerby, depending upon the nature of the site. Some routes would be difficult to close because they pass by these sites while other routes, which offer additional recreational opportunities end at or nearby these sites. Some sites where intensive OHV use is occurring, BLM may construct wayside exhibits to assist in the education of the fragile resource along with protection measures the public can take in the preservation process. Some cultural sites may be fenced to keep people from disturbing these sites. Detailed protection and interpretive measures will be developed in the implementation phase. Some sites have not been sufficiently inventoried to allow public access. Upon completion of these inventories and protective measures, more sites will become available for public viewing and/or interpretation, if needed.

PC 423: The Proposed Plan should end or radically restrict off-road vehicular racing activities to reduce Mojave Indian Tribe cultural resources impacts.

Response: The range of alternatives considers a strategy that would restrict racing activities to OHV open areas (Alternative 2) and analyzes the environmental impacts of that strategy. The Proposed Plan is a modification of Alternative 2, and provides for the following: “Competitive vehicle events may only be held in MUC I with an area designation of “Open” or on specified recreation routes which have been delineated and designated in the CDCA Plan.” See Chapter 4, Section 4.8, particularly 4.8.1 for impacts of the event, and 4.8.5 for impacts of the Proposed Plan.

Technical/Editorial

PC 424:

Preface: The responses from BLM on the technical public comments treat each item as a separate element. Each suggestion or observation and comment was fully compared with the text and changes made where warranted. Because of the nature of the technical and editorial comments from the public, the original responses remain in the text followed by the BLM response.

Comment: Chapter 3-33, Section 3.10 Minerals and Mining, and Appendix K-9-11 – These sections are a reasonable description of the three categories: (1) locatable, (2) leasable, (3) saleable minerals. Figure 3.a., NEMO Active Mines & Mineral Potential map legend has no correlation to that terminology used in Section 3.10, and Appendix K-9-11 (see enclosed Figure 3.a.). (Individual, Las Vegas, NV – #M13)

BLM Response: The terms were inserted into Figure 3.a.

Comment: p. xv. The plan provides “...to the extent feasible, the preferred alternative provides a public access network...Where it does not jeopardize T&E conservation and recovery.” The phrase “to the extent feasible” should be removed—vehicle access should never threaten T&E species. Also, add that vehicle access should not compromise other values, such as esthetic. Also, the goal of the plan should be no vehicle access expansion, not just to keep the same pace of development. Sec. 1.1—Purpose and need—emphasize that not every use has to occur on every square foot of land. (Individual, Ridgecrest, CA – #M57)I note that in line 6 on p. 0-3 there is extra “near.” On Line 8 there is a reference to “Hot Springs”—this should be corrected, presumably it is referring to Tecopa Hot Springs. In the third line—upper should not be capitalized. In the last line on this page, what does “Shoshone-side” mean? (Individual, Ridgecrest, CA – #M57).

BLM Response: The changes were considered, but original form retained, primarily due to budget restraints. Various terms suggested were changed in the text.

Comment: The following comments are offered for your consideration in preparing the Final EIS: To improve readability, we suggest assigning a single designation to the preferred alternative (e.g., Alternative2). Additional numerical designations should only be given to alternatives, which deviate from both “no action”, and the preferred alternative for every topic discussed (i.e., they are completely separate alternatives which stand on their own for the purpose of analysis). Additional sub-alternatives proposing an alternative method of dealing with a specific issue can be designated using letters (e.g., Alternative 2, Option A) or some other method. Formatting the document in this way will reduce the need to continually refer to previous alternatives in the impact analysis section. (U.S. Environmental Protection Agency, San Francisco, CA – #M68)

BLM Response: Done.

Comment: Second bullet states, “What strategies should be pursued to help ensure a continuing riparian flow. . .necessary for T&E plants to survive and thrive?” [[Carson Slough]]. Under the preferred alternative, 2.4.2.2, the DEIS describes the intent to develop strategies within a 3-year period and identifies an action to ‘delineate the Amargosa aquifer’. However, no other explanation is given for this designation, such as its purpose, what area is encompassed, protections afforded and upon what authority such designation is based. In App. B -Implementation Plan, the table on page B-7 provides no task statement consistent with an aquifer ‘designation’. (U.S. National Park Service, Oakland, CA – #M42).

BLM Response: Noted – Tamarisk control, erosion control. The Purpose was stated in Chapter 1. Delineation would take place over a 3-year period. Items 6 and 7 on p B-7 would probably include this delineation.

5) Allotments Colton Hills (09202) and Gold Valley (09212) need to be dropped from BLM’s records. (U.S. National Park Service, Oakland, CA – #M42).

Kessler Springs (09008) is owned by the National Park Service and should be removed from the Table. (U.S. National Park Service, Oakland, CA – #M42).

Piute Valley (9004) Allotment is an ephemeral allotment. (U.S. National Park Service, Oakland, CA – #M42).

BLM Response: So stated in Table 2.10. Code D.

Comment: The last bullet refers to the ‘Amargosa’ aquifer. On page 3-15, under 3.3.2 WATER, there is discussion about the Amargosa River, but not the ‘Amargosa aquifer’. We believe the appropriate reference would be the ‘upper aquifer in the Amargosa Desert consisting of the unconsolidated valley fill sediments (i.e. valley or basin-fill aquifer)’. (U.S. National Park Service, Oakland, CA – #M42).

BLM Response: BLM rdefers to the Amargosa “hydrologic system”, which includes the editing suggestion.

Comment: NPS recommends a clarification of Wilderness Study Area (WSA) “release” language in the CDPA. If the CDPA did not specifically release the land from WSA status, then it is still in WSA status. (U.S. National Park Service, Oakland, CA – #M42).

BLM Response: BLM follows this definition – see section 1.3.6 and Footnote 7.

Comment: The second paragraph-second sentence contends the area is generally characterized by deep water tables. It should also be stated “except where the water tables of the upper and deeper bedrock aquifers intersect the land surface to produce intermediate and large volume spring discharges. These discharges form the flows which maintain riparian and T&E plants and animals.” (U.S. National Park Service, Oakland, CA – #M42).

BLM Response: Comment valid, but omission not a serious flaw.

The last sentence of the first paragraph refers to commercial groundwater pumping in Ash Meadows. This should state that ‘commercial groundwater pumping occurs near Ash Meadows’ in Amargosa Valley. (U.S. National Park Service, Oakland, CA – #M42).

BLM Response: Stated in Text.

Literature Cited (Section 6.2) does not contain a complete listing of references made throughout the document. (U.S. National Park Service, Oakland, CA – #M42).

BLM Response: Updated in Literature Cited.

Fig. 2 is confusing and does not clearly show the grazing allotments within the Mojave National Preserve. NPS recommends allotments be labeled and the retired allotments shown as retired. (U.S. National Park Service, Oakland, CA – #M42).

BLM Response: Now updated and clarified.

Fig. 3 needs to define NPS-owned areas. (U.S. National Park Service, Oakland, CA – #M42).

Several figures, starting with Fig. 3a, incorrectly label the Twentynine Palms Marine Base as Joshua Tree National Park. (U.S. National Park Service, Oakland, CA – #M42).

BLM Response: Updated and clarified.

Fig. 6.a does not accurately reflect the lands within the Mojave National Preserve. (U.S. National Park Service, Oakland, CA – #M42).

BLM Response. For the purposes BLM needs, in this document, the accuracy is sufficient. See NPS – EIS and EMP, Mojave, July, 2000.

Fig. 7.a would be more easily understood without the delineation of NPS boundaries. (U.S. National Park Service, Oakland, CA – #M42).

BLM Response: BLM prefers the version used.

This figure incorrectly shows Clark Mountain as a burro range managed by BLM. (U.S. National Park Service, Oakland, CA – #M42).

BLM Response: Herd area on map depicts historic burro range since the passage of the Wild Horse and Burro Act.

All figures: Maps do not depict Wilderness boundaries on NPS lands. NPS can provide updated maps showing the most current Wilderness boundaries within Mojave National Preserve. (U.S. National Park Service, Oakland, CA – #M42).

BLM Response: BLM Response: Thank you for the offer. The maps are considered sufficient, since BLM doesn't manage wilderness areas on NPS lands.

While removal of horses and burros from NPS land is coordinated between NPS and BLM, it is important that the NEMO not imply that wild horse and burro management on NPS land is a BLM responsibility. The text needs to make clear that the BLM does not manage horses and burros on NPS lands. (U.S. National Park Service, Oakland, CA – #M42).

BLM Response: Implication is not made. There is a cooperative effort for this process between agencies.

These documents [DEIS] should provide more detailed mapping products at a legible scale to allow for the precise delineation of privately owned parcels identified for acquisition from willing sellers, including the provision of legal descriptions and Inyo County Assessor's Parcel Numbers. (Inyo County Board of Supervisors, Independence, CA – #M37).

BLM Response: Full information not known to authors at this time. Data on 15a-c, 13c, 11,9 are sufficient for the purposes of the EIS.

In your draft there are no less than 12 maps that are in error. The shaded area south of 1-40 is the Marine Corps Air-Ground Combat Center, not the Joshua Tree National Park. (Individual, No Address – #M317).

BLM Response: Maps have been corrected.

Chapter 1 page 15: The National Materials and Minerals Policy, Research and Development Act of 1980 should be its own separate bullet. Chapter 1-18: A revised Draft of both the Death Valley National Park and Mojave National Preserve GMP and EIS were issued in the summer of 2000. The text of the Draft Plan/DEIS states that such documents are “expected.” Chapter 1-18: Please add a paragraph on the Joshua Tree National Park General Management Plan Amendment adopted in January 2000.

BLM Response: Text now reflects this development.

Chapter 3-19: The Draft Plan states that three of the allotments covered by the Plan now have portions within Death Valley National Park. For clarity’s sake, please list the three. Chapter 3-31: Rockhounding is prohibited not only in the National Parks in the California Desert but also in the Mojave National “Preserve.” (Preservation/Conservation Organization, Oakland, CA – #M27).

BLM Response: Page 3-20-23 named the allotments that are partially in NPS (Clark Mountain, Crescent Peak and Hunter Mountain.). Chapter 3-31 confirms the comment.

Soil Infiltration and Permeability Rate Standard. The regional standard for soil requires that soils exhibit infiltration and permeability rates appropriate to soil type, climate, geology, land form and past uses. The standard should include an objective or numerical landmark by which one can determine whether the soil infiltration and permeability rate is appropriate. (Recreational Organization, San Diego, CA – #M67).

BLM Response: As with other parameters used to establish standards and guidelines, the planning process will determine the scientific basis for measuring the above mentioned factors. See comment below for species standards as an example.

Comment: Objective Standard By Which Species Can Be Evaluated Must Be Provided in Addition to Indicators Listed. The EIS at page 2-6 lists the standards of public health in the NEMO Planning Area. For native species, the EIS lists indicators for healthy, productive, and diverse habitats for native species. These indicators include photosynthetic and ecological processes, plant vigor, nutrient cycle, energy flow, etc. The EIS cites to no objective standard for judging whether the plants meet these indicators. (Recreational Organization, San Diego, CA – #M67).

BLM Response: The 15 grazing management practices include standards of Public Land Health that reflect a holistic biological view considered by BLM to be necessary for native species management. Basic principles of the botanical and conservation sciences would be used to finalize each parametric estimate for accuracy in developing the standards. An assortment of representative scientific references to use for the basis of the standards includes:

- 1) Latting, J., and P, G. Rowlands (Ed.) 1995. The California Desert: An Introduction to Natural Resources and Man’s Impact. Vols. I and II. June Latting Books. Riverside, CA 92507. 665 p.
- 2) Buckley, G.P. (Ed.) 1989. Biological Habitat Reconstruction. Belhaven Press. London
- 3) Bassard, C.C., J.M Randall, and M.C. Hoshovsky. (Eds.). 12000. Invasive Plants of California’s Wildlands. University of California Press. Berkeley. 360 p.
- 4) Gilpin, M., and I Hanski. 1991. Metapopulation Dynamics: Empirical and Theoretical Investigations. Academic Press. London. 336 p.
- 5) Teague, R.D., and E. Decker. 1979. Wildlife Conservation: Principles and Practices. The Wildlife Society. 280 p.

Comment: Desert Tortoise Conservation and Recovery 1. Citation for Desert Tortoise Habitat Goals Must be Provided. At page 2-13, the EIS identifies the goals for Desert Tortoise habitat categories 1, 2, and 3. The EIS should cite to the document that defines these goals.

BLM Response: In section 2.2, citations are listed re. This issue. The Recovery Plan for Desert Tortoise (Mojave Population), the Tortoise Rangewide Plan and Foreman (1998).

Comment: 2. Biological Opinions Should be Appended to the EIS. The EIS at page 2-14 lists the current biological opinions and programmatic agreements that would be part of the No Action Alternative. The EIS should include these biological opinions as an Appendix to the EIS.

BLM Response: This is not a general practice in NEPA documents of this nature. Biological Opinions are all available at local offices of USFWS.

Comment: 3. Maps and Rationales Must be Provided for Alternative of the Modified Recovery Plan. The EIS at page 2-16 identifies Alternative 2, the Modified Recovery Plan. As part of this Modified Recovery Plan, “Category I habitat would be adjusted slightly to coincide with the critical habitat boundaries including the Ivanpah Unit (Category I eliminated north of the second main linear utility running across the southern extent of Ivanpah Dry Lake).” Given that the Ivanpah unit has experienced substantial Desert Tortoise mortality due to disease, the EIS should explain why this area continues to be designated as critical habitat. (Recreational Organization, San Diego, CA – #M67).

BLM Response: N change in text. USFWS determines critical habitat. BLM must manage as such.

Comment: Amargosa Vole Recovery Plan Must be Appended to the EIS. The EIS at page 2-30 refers to the Amargosa Vole Recovery Plan. This plan should be included as an appendix to the EIS. (Recreational Organization, San Diego, CA – #M67).

BLM Response: Appendix H deals with this in detail.

Comment: The EIS Fails to Support Statements About Plant Decisions in the Lower Carson Slough Area. The EIS at page 2-36 states that portions of Carson Slough: (1) have been designated as critical habitat for the Amargosa Niterwort and the threatened Ash Meadows Gumplant, and (2) are known to support the BLM designated sensitive Tecopa Birdsbeak as well. Finally, the EIS claims that a federally threatened Spring loving centaury may also occupy this area. The EIS should cite to the biological data that support these statements. Carson Slough Desert Management Route Designation and Implementation. The EIS at page 2-38 discusses Carson Slough. However, the EIS provides no evidence that OHV activity threatens or otherwise affects protected plant species in Carson Slough. Therefore, there is no perceptible benefit from route designations that reduce OHV opportunities in this area. (Recreational Organization, San Diego, CA – #M67).

BLM Response: Appropriate references are now cited in the text. Critical habitat designation by USFWS must be complied with by BLM. Reducing OHV traffic and access is a part of the compliance.

Comment: **B. Wildlife** 1. Non-water Associated Activities Impacts to Towhee Habitat. The EIS, at page 3-10, in discussing the Inyo California towhee, states that potential threats to the towhee’s habitat “include wild burros and horses, mining, recreational activities, cattle grazing, water exportation and encroachment by rural residents.” Because the towhee’s habitat includes riparian habitat and a planned streambed habitat surrounding springs, the EIS should discuss—with references to technical data—how mining and recreational activities and other non-water associated activities threaten towhee habitat.

BLM Response: Towhee critical habitat mandates special management precautions. Everything ends up in the water. Reference in the text to La Berteauz (1998) and USFWS (1998).

Comment: 2. Does the NEMO Planning Area Contain Southwestern Willow Flycatcher Habitat? The EIS at page 3-12 discusses the Southwestern Willow Flycatcher. The EIS notes that Southwestern Willow Flycatchers nest only in dense riparian vegetation associated with streams, rivers, lakes, springs, and other watercourses and wetlands. The EIS does not state whether or not there are any Southwestern Willow Flycatchers present in the NEMO Planning Area, nor whether there is any potential habitat for the Southwestern Willow Flycatcher in the NEMO Planning Area.

BLM Response: Suitable habitat is sufficient to be precautionary.

3. The EIS's Discussion of the Western Yellow-billed Cuckoo Lacks Relevance and Support. The EIS at page 3-13 and 3-14 discusses the Western Yellow-billed Cuckoo, but fails to identify the extent to which the species or their habitat are present in the NEMO Planning Area. In addition, the EIS at page 3-14 states that the cause of the decline of the Western Yellow-billed Cuckoo historically and recently primarily from habitat loss on the breeding grounds. The EIS should cite to the biological information that supports that statement. (Recreational Organization, San Diego, CA – #M67).

BLM Response: See reference Layman and Halterman (1989) in text, and others.

Comment: III. AFFECTED ENVIRONMENT A. Vegetation 1. The EIS Fails to Cite to the Federal Register Designation of Critical Planning Area. In describing the south-central and southern area of the NEMO Planning Area, the EIS at page 2-1 states simply that this is Desert Tortoise habitat. This bare statement should be supported by reference to the Federal Register page that discusses the designation of critical habitat for the Desert Tortoise, and how that designated area coincides with the south-central and southern area of the NEMO Planning Area. 2. Support Must be Provided for Statements Regarding Plant Species Critical Habitat. The EIS at page 3-3 states that the critical habitat designated areas for the Amargosa niterwort and Ash Meadows Gumplant are separated by a 1.2 mile-wide stretch of public lands. The EIS then states that both critical habitat designated units, as well as the area between the units, are suspected to support the federal listed threatened Spring loving centaury. The EIS should refer to the technical information that supports this statement.

BLM Response. See above comments. References are inserted into Chapter 2 (2.4) and Appendix I.

Comment: 3. Statement Regarding Numbers of Plant Species Must be Supported. The EIS at page 3-3 states that certain ranges within the NEMO Planning Area contain an unusually high number of special status plants. The EIS should refer to the biological study that supports that statement. (Recreational Organization, San Diego, CA – #M67).

BLM Response: Refer to website for California Native Plant Society. <http://www.cnps.org/rareplants/relations/blm.htm> Also refer to John Willoughby, State Botanist for BLM. 2800 Cottage Way. Room W-1834. Sacramento, CA.

Comment: 4. Not all Public Recreation is Unsupervised and Unorganized. The EIS at page 3-25 states that public recreation use of the BLM-administered lands is unsupervised and unorganized. To the contrary, many organized off-road vehicle groups conduct their recreation in an organized manner.

BLM Response: Refer to Section 2.9.1 re. Organized events.

Comment: 5. Absence of Information Does Not Justify Inferior Environmental Protection. The EIS at page 3-56 discusses released WSA MUC proposals. In discussing Cerro Gordo, the EIS states that lack of inventory data precluded a higher sensitivity rating for this area. A lack of information should not automatically defer to lower environmental protection. Please provide the Standard for Changing Area MUC Designations. The EIS describes areas for which MUC designation changes are proposed. What is the standard for changing a MUC designation from MUC M to MUC L?

BLM Response: Refer to next comment and response. As an example, the rationale for MUC change is that certain categories may more appropriately support specific management goals for resources while still allowing for other activities to occur. This is the case in the NECO area for management of bighorn sheep while permitting mining operations to occur.

Comment: 7. The EIS Fails to Support Statements Regarding Organized Competitive Vehicle Events. At page 3-58 the EIS discusses organized competitive vehicle events. The EIS identifies the vegetation, wildlife, soil, water, air quality, cultural resources and wilderness in the Barstow to Vegas course. For all of these entries the EIS should cite to the biological report or other technical document that supports the statements made.

BLM Response: A high sensitivity rating would require an EA for projects. The role of the BLM is to protect resources. Inventories would be carried out to assess the current status of resources so that MUC categories could be adjusted if necessary.

Comment: 8. The EIS Must Provide Evidence For Claimed Race Course Event Impacts On Vegetation. The EIS states at page 3-58 that the vegetation along the 1990 proposed course is not fully recovered from previous years' events. The EIS should cite to the technical document that has analyzed the vegetation and come to that conclusion. (Recreational Organization, San Diego, CA – #M67).

BLM Response: A substantial body of evidence exists on the effects of OHV on desert and other vegetation. See Chapter 4, 4.9.1.6.

Comment: 6. Objective Standard By Which Species Can Be Evaluated Must Be Provided in Addition to Indicators Listed. The EIS at page 2-6 lists the standards of public health in the NEMO Planning Area. For native species, the EIS lists indicators for healthy, productive, and diverse habitats for native species. These indicators include photosynthetic and ecological processes, plant vigor, nutrient cycle, energy flow, etc. The EIS cites to no objective standard for judging whether the plants meet these indicators. (Recreational Organization, San Diego, CA – #M67).

BLM Response: Chapter 2, Section 2.1 and Appendix B discuss the development of standards and guidelines as a function of future applications on basic scientific principles for rangeland health (this includes many native species), and refers to the NPS "Vital Signs" program.

Comment: 9. Please Provide Citation For Field Inspection of Race Course Vegetation Regrowth. The EIS at page 3-59 says that the proposed route around Solomon's Knob in the Needles Resource Area was last used in a 1974 race and a 1990 Field Inspection Event showed little regrowth of vegetation. The EIS should cite to the field inspection for verification of that fact.

BLM Response: Refer to Chapter 4, section 4.9.1.6.

Comment: 10. The CDCA Plan Motorized-Vehicle Access Element Is Incomplete. The EIS at page 3-63 discusses motor vehicle access and routes of travel. The EIS notes that the BLM previously managed access under the Interim Critical Management Program (ICMP) that became invalid with approval of the Proposed Plans and the new OHV areas designations. However, since the CDCA Plan Motorized-Vehicle Access Element has not been completed, existing routes of travel in MUC M and MUC L areas will continue to follow the ICMP mapping. Baseline conditions cannot be fully evaluated until the CDCA Plan Motorized-Vehicle Access Element is completed.

BLM Response: Noted. The pertinent sections of the text were amplified, and Figures were redrawn to reflect these concerns.

Comment: 11. The EIS Must Analyze Motor Vehicle Access Impacts. The EIS at page 3-62 discusses motor vehicle access and routes of travel. In this section discussing the affected environment, the EIS fails to discuss effects of motor vehicle access on vegetation, wildlife, water, air quality, cultural resources, wilderness, recreation and socioeconomic.

BLM Response. Chapter 4 discusses these variables in detail regarding each candidate alternative.

Comment: 12. Biological Soil Crust Recover Claims Lack Support. The EIS at page 4-4 discusses biological soil crusts. The EIS makes statements regarding the condition of biological soil crusts noting that the less it rains the slower the recovery of biological soil crusts, and that it can take decades before biotics will begin to recover. The EIS should cite to the technical information or biological study that supports these statements. (Recreational Organization, San Diego, CA – #M67).

BLM Response: Ample information is provided about the phenomenon as listed in the five references in the paragraph in Chapter 4.

Comments: Appendix T was added after the fact. Because if you look in the first part of your book, it never mentions it. You can start in the first part of your text, and it doesn't mention Surprise Canyon all the way through. And that's clearly in violation of NEPA. (Individual, No Address – #M323).

BLM Response: Oversight in Chapter 4. Surprise Canyon Creek is analyzed in Section 4.11 and in Chapter 2, Section 2.12 as well as in appendix T, and Chapter 8, Figure 15c.

U.2 Demographics

Demographic reporting allows managers to focus on specific areas of concern linked to respondent categories, geographic areas, and response types. Managers can use this information to form an overall picture of who submits comments, how they respond, where they live, and what organizations or government agencies they are affiliated with. Demographic reports can display very general to very specific categories of information derived from public comment letters based on client needs. For example, a report can show the number of respondents by state, county or city, or can identify the number of responses from certain affiliations, such as recreational organizations.

U.2.1 Geographic Representation

Geographic representation was tracked for each respondent. Correspondence was received from 50 of the United States and Puerto Rico. In addition, numerous respondents revealed no geographic origin. The following tables report the number of respondents and signatures by state, and the number of respondents and signatures by county in California.

Table U-1 – Geographic Representation of Response by State for NEMO

Country	State	Number of Respondents	Number of Signatures
United States	Alabama	4	4
United States	Alaska	3	3
United States	Arizona	169	172
United States	Arkansas	1	1
United States	California	405	439
United States	Colorado	36	36
United States	Connecticut	3	3
United States	Delaware	2	2
United States	District of Columbia	7	7
United States	Florida	19	19
United States	Georgia	10	10
United States	Hawaii	2	2
United States	Iowa	4	4
United States	Idaho	8	8
United States	Illinois	23	23
United States	Indiana	3	3
United States	Kansas	2	2
United States	Kentucky	4	4
United States	Louisiana	6	6
United States	Maine	5	5
United States	Maryland	12	12
United States	Massachusetts	17	17
United States	Michigan	18	18
United States	Minnesota	9	9
United States	Missouri	11	11
United States	Montana	7	7
United States	Nebraska	2	2
United States	Nevada	13	13
United States	New Hampshire	1	1
United States	New Jersey	16	16
United States	New Mexico	26	26
United States	New York	41	41
United States	North Carolina	19	19

Country	State	Number of Respondents	Number of Signatures
United States	North Dakota	2	2
United States	Ohio	11	11
United States	Oklahoma	3	3
United States	Oregon	15	16
United States	Pennsylvania	21	21
United States	Puerto Rico	1	1
United States	Rhode Island	2	2
United States	South Carolina	4	4
United States	Tennessee	9	9
United States	Texas	30	31
United States	Utah	7	7
United States	Vermont	7	7
United States	Virginia	15	15
United States	Washington	33	33
United States	Wisconsin	10	10
United States	West Virginia	6	6
United States	Wyoming	2	2
Unaffiliated		65	66
Total		1,151	1,191

Table U-2– Geographic Representation of Response by California Counties for NEMO

State	County	Number of Respondents	Signatures
California	Alameda	35	36
California	Butte	4	5
California	Contra Costa	5	5
California	Del Norte	1	1
California	El Dorado	2	2
California	Fresno	6	6
California	Humboldt	11	11
California	Inyo	9	12
California	Kern	7	7
California	Los Angeles	54	59
California	Marin	13	13
California	Mariposa	1	1
California	Mendocino	3	3
California	Monterey	2	2
California	Nevada	6	6
California	Orange	19	19
California	Placer	2	2
California	Riverside	10	10
California	Sacramento	13	30
California	San Bernardino	28	34
California	San Diego	41	42
California	San Francisco	32	32
California	San Luis Obispo	7	7
California	San Mateo	11	11
California	Santa Barbara	10	10
California	Santa Clara	28	28
California	Santa Cruz	13	13
California	Solano	2	2
California	Sonoma	11	11
California	Stanislaus	2	2
California	Tulare	1	1
California	Toulumne	1	1
California	Ventura	6	6

State	County	Number of Respondents	Signatures
California	Yolo	4	4
	Unidentified	5	5
Total		405	439

U.2.2 Organizational Affiliation

Responses were received from various organizations and unaffiliated individuals including Federal, State, and County government agencies and representatives, multiple use/wise use organizations, environmental groups, and various user groups such as recreational and mining organizations. Organization types were tracked for each response submitted during the comment period.

Table U-3– Number of Responses/Signatures by Organizational Affiliation for NEMO

Organization Field	Organization Type	Number of Respondents	Number of Signatures
B	Business (my/our; Chamber of Commerce)	1	1
C	County Government Agency/Elected Official	5	5
D	Place Based Group (represents a region)	1	1
F	Federal Agency/Elected Official	2	2
I	Unaffiliated Individual	1,094	1,115
P	Preservation/Conservation Organization	17	18
Q	Tribal Government/Elected Official/Tribal Member/Association	1	1
R	Recreational Organization (Motorized/Non-motorized, non-specific)	23	24
S	State Government Agency/Elected Official	4	21
T	Town/City Government Agency/Elected Officials/Association	1	1
Z	Multiple Use/Wise Use Organization	2	2
Total		1,151	1,191

U.2.3 Response Type

Response types were tracked for each response submitted during the comment period. Responses were received in the form of letters, forms, transcripts, and one resolution.

Table U-4– Number of Responses/Signatures by Response Type for NEMO

Response Type #	Response Type	Number of Responses	Number of Signatures
1	Letter	85	118
2	Form	1,004	1,012
3	Resolution	1	1
4	Action Alert	0	0
5	Transcript	60	60
Total		1,150	1,191

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